PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BACHARACH: A bill (H.R. 9587) for the relief of George E. Morrison; to the Committee on Naval Affairs.

By Mr. COLLINS of California: A bill (H.R. 9588) granting an increase of pension to Addie Allen; to the Committee on Invalid Pensions.

By Mr. DARDEN: A bill (H.R. 9589) to extend the benefits of the Employees' Compensation Act of September 7, 1916, to Solomon J. Oliver; to the Committee on Claims.

By Mr. HARLAN: A bill (H.R. 9590) granting a pension to Ida J. Clark; to the Committee on Invalid Pensions.

By Mr. HENNEY: A bill (H.R. 9591) for the relief of John E. Ford; to the Committee on Military Affairs.

By Mr. IMHOFF: A bill (H.R. 9592) for the relief of James Mickey; to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

4600. By Mr. BLOOM. Petition of 21 citizens of New York, endorsing the Lundeen bill (H.R. 7598); to the Committee on Labor.

4601. Also, petition of the members of Independent Skoler Lodge, No. 220, Independent Order Brith Abraham, urging that the programs over all the stations upon the 1,400 kilocycle wave band, and especially WARD, be permitted to continue in the future as it has in the past; to the Committee on Merchant Marine, Radio, and Fisheries.

4602. By Mr. FITZPATRICK: Petition signed by Michael J. Nolan, of 182 Ashburton Avenue, Yonkers, N.Y., and a number of other residents of Yonkers, N.Y., urging the passage of the McLeod banking bill; to the Committee on Banking and Currency.

4603. By Mr. FOSS: Petition of the One Hundred and Fourth United States Infantry Veterans' Association, American Expeditionary Forces, protesting against the circulation of certain seditious propaganda tending toward the undermining of historical, traditional, and hereditary patriotism, and demanding an investigation and action by the Federal authorities for its suppression; to the Committee on the Judiciary.

4604. By Mr. JAMES: Resolution of the L'Anse Band of Lake Superior Chippewa Indians of L'Anse, Mich., favoring the passage of the Wheeler-Howard bill (H.R. 7902); to the Committee on Indian Affairs.

4605. By Mr. KRAMER: Resolution from the Board of Supervisors of the County of Los Angeles; to the Committee on Roads.

4606. By Mr. LEHR: Petition of Scofield Local, No. 15, of the Farmers' Union, Monroe County, Mich., urging passage of the Frazier bill, the Wheeler bill, and the Swank-Thomas bill; to the Committee on Agriculture.

4607. By Mr. LINDSAY: Petition of Booker T. Washington Society of the Brooklyn Evening High School, Brooklyn, N.Y., urging enactment of the Wagner-Costigan antilynching bill; to the Committee on Labor.

4608. Also, petition of the Associated Highway Fence Builders of New York State, Buffalo, favoring the support of the Cartwright road bill (H.R. 8781); to the Committee on Roads.

4609. By Mr. KRAMER: Resolution from the City Council of the City of Bell, Calif.; to the Committee on Appropriations.

SENATE

FRIDAY, MAY 11, 1934

(Legislative day of Thursday, May 10, 1934)

The Senate met at 11 o'clock a.m., on the expiration of the recess.

THE JOURNAL

On motion of Mr. ROBINSON of Arkansas, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day of Thursday, May 10, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. FLETCHER. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	Hebert	Pittman
Ashurst	Costigan	Johnson	Pope
Austin	Couzens	Kean	Reynolds
Bachman	Cutting	Keyes	Robinson, Ark.
Bailey	Davis	King	Schall
Bankhead	Dill	La Follette	Sheppard
Barbour	Duffy	Lewis	Shipstead
Barkley	Erickson	Logan	Steiwer
Black	Fess	Lonergan	Stephens
Bone	Fletcher	McCarran	Thomas, Okla.
Borah	Frazier	McGill	Thomas, Utah
Brown	George	McKellar	Thompson
Bulkley	Gibson	McNary	Townsend
Bulow	Glass	Metcalf	Trammell
Byrd	Goldsborough	Murphy	Tydings
Byrnes	Gore	Neely	Vandenberg
Capper	Hale	Norbeck	Van Nuys
Caraway	Harrison	Norris	Wagner
Carey	Hastings	Nye	Walcott
Clark	Hatch	O'Mahoney	Walsh
Connally	Hatfield	Overton	Wheeler
Coolidge	Hayden	Patterson	

Mr. ROBINSON of Arkansas. I desire to announce that the Senator from California [Mr. McADOO] is absent because of illness; that the Senator from Georgia [Mr. RUSSELL] is absent on account of a death in his family; and that the Senator from Louisiana [Mr. LONG], the Senator from Illinois [Mr. DIETERICH], and the Senator from South Carolina [Mr. SMITH] are necessarily detained from the Senate. I ask that this announcement may stand for the day.

Mr. HEBERT. I wish to announce that the Senator from Iowa [Mr. DICKINSON], the Senator from Pennsylvania [Mr. REED], the Senator from Indiana [Mr. ROBINSON], and the Senator from Maine [Mr. WHITE] are necessarily absent from the Senate. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

PREVENTION OF USURY IN THE DISTRICT—MOTION TO RECONSIDER

Mr. BULKLEY. Mr. President, I desire to enter a motion to reconsider the vote by which the bill (S. 587) to amend section 1180 of the Code of Law for the District of Columbia with respect to usury was passed yesterday.

The VICE PRESIDENT. The motion will be entered.

CHIPPEWA INDIAN TREATIES—MOTION TO RECONSIDER

Mr. SHIPSTEAD. I desire to enter a motion to reconsider the vote by which the bill (S. 2980) to modify the effect of certain Chippewa treaties on areas in Minnesota was passed by the Senate on yesterday.

The VICE PRESIDENT. The motion will be entered.

PETITIONS AND MEMORIALS

Mr. COPELAND presented a resolution adopted by the Council of the City of New Rochelle, N.Y., favoring the passage of the bill (S. 3051) to provide for a preliminary examination and survey of Echo Bay, New Rochelle, N.Y., which was referred to the Committee on Commerce.

He also presented a petition of sundry citizens of New York City, N.Y., praying for the passage of the so-called "Lundeen bill", being the bill (H.R. 7598) to provide for the establishment of unemployment and social insurance, and for other purposes, which was referred to the Committee on Education and Labor.

He also presented petitions (sponsored by Dupont Rayon Workers' Local Union No. 2055, United Textile Workers of America), of sundry citizens of Buffalo, N.Y., praying for the passage of the bill (S. 2926) to equalize the bargaining power of employers and employees, to encourage the amicable settlement of disputes between employers and employees, to create a National Labor Board, and for other purposes, which were referred to the Committee on Education and Labor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

He also presented a petition of sundry citizens, being veterans of foreign wars and members of the One Thousand Three Hundred and Sixty-third Company (Veterans' Contingent), Civilian Conservation Corps, Camp P–69, at Chancellor, Va., praying for the enactment of legislation providing prompt payment of adjusted-compensation certificates (bonus) of World War veterans, which was referred to the Committee on Finance.

He also presented a resolution adopted by Woodside Post, No. 886, American Legion, of Woodside, N.Y., protesting against the entrance of the United States into the League of Nations or the World Court, which was referred to the Committee on Foreign Relations.

He also presented resolutions adopted by various councils of the Sons and Daughters of Liberty, all in the State of New York, protesting against the enactment of legislation loosening immigration restrictions, which were referred to the Committee on Immigration.

He also presented numerous resolutions adopted by various religious, fraternal, and other organizations, and petitions of sundry citizens, all in the State of New York, favoring and praying the amendment of proposed radio legislation so as to provide adequate broadcasting facilities for religious, educational, and agricultural subjects, which were referred to the Committee on Interstate Commerce.

He also presented a resolution adopted by employees of the Utica (N.Y.) post office favoring enactment, over the President's veto, of the bill (H.R. 7483) to provide minimum pay for postal substitutes, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens, being former post-office employees of New York City, who were recently dismissed from the service, praying for the passage of legislation reinstating them in the Postal Service, which was referred to the Committee on Post Offices and Post Roads.

He also presented resolutions adopted by the Good Citizenship League, of Flushing, N.Y., favoring a senatorial investigation of profits made by munition makers, in the interest of peace, which were ordered to lie on the table.

He also presented a resolution adopted by the Presbytery of Brooklyn-Nassau, N.Y., protesting against the making of appropriations for construction of warships as authorized by the so-called "Vinson naval construction bill", and favoring measures in the interest of peace, which was ordered to lie on the table.

He also presented resolutions adopted by the Booker T. Washington Society of the Brooklyn Evening High School, of Brooklyn, and the Mount Vernon Branch, National Association for the Advancement of Colored People, of Mount Vernon, both in the State of New York, favoring the passage of the so-called "Wagner-Costigan antilynching bill", which were ordered to lie on the table.

He also presented a letter from Samuel W. Reyburn, president Associated Dry Goods Corporation, New York, N.Y., transmitting copy of an address delivered by him to the Sales Executives Club of New York, in opposition to the Securities Act of 1933 and the so-called "stock-exchange bill of 1934", which, with the accompanying paper, was ordered to lie on the table.

REPORTS OF COMMITTEES

Mr. GIBSON, from the Committee on Claims, to which was referred the bill (S. 1786) for the relief of Lucile A. Abbey, reported it with an amendment and submitted a report (No. 968) thereon.

Mr. STEPHENS, from the Committee on Claims, to which was referred the bill (S. 2242) for the relief of the Collier Manufacturing Co., of Barnesville, Ga., reported it with amendments and submitted a report (No. 979) thereon.

Mr. FRAZIER, from the Committee on Indian Affairs, to which was referred the bill (S. 2617) for the relief of the estate of Jennie Walton, reported it with amendments and submitted a report (No. 969) thereon.

He also, from the same committee, to which was referred the bill (S. 2768) for the relief of Mabel S. Parker, reported it with an amendment and submitted a report (No. 970) thereon.

Mr. LA FOLLETTE, from the Committee on Indian Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 3514. An act to provide for the enrollment of members of the Menominee Indian Tribe of the State of Wisconsin (Rept. No. 972); and

S. 3515. An act to amend the law relating to timber operations on the Menominee Indian Reservation in Wisconsin (Rept. No. 973).

Mr. HATCH, from the Committee on Indian Affairs, to which was referred the bill (S. 2906) for the relief of Ransome Cooyate, reported it without amendment and submitted a report (No. 978) thereon.

Mr. WHEELER, from the Committee on Indian Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 2888. An act to provide for expenses of the Crow Indian Tribal Council and authorized delegates of the tribe (Rept. No. 982);

S. 2889. An act for the relief of certain Indians of the Fort Peck Reservation, Mont. (Rept. No. 983);

S. 2918. An act for the relief of N. Lester Troast (Rept. No. 984);

S. 3286. An act authorizing the exchange of the lands reserved for the Seminole Indians in Florida for other lands (Rept. No. 985); and

S. 3463. An act to authorize the addition of certain names to the final rolls of the Blackfeet Tribe of Indians in the State of Montana (Rept. No. 986).

Mr. WHEELER also, from the Committee on Indian Affairs, to which was referred the bill (S. 2892) to amend existing laws prohibiting the introduction of intoxicating liquors within the Indian country to permit its use as a medicine by practicing physicians for patients of Indian blood, reported it with an amendment and submitted a report (No. 987) thereon.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 74) to authorize payment of expenses of formulating claims of the Kiowa, Comanche, and Apache Indians of Oklahoma against the United States, and for other purposes, reported it without amendment and submitted a report (No. 988) thereon.

Mr. THOMPSON, from the Committee on Indian Affairs, to which was referred the bill (S. 2557) to investigate the claims of and to enroll certain persons, if entitled, with the Omaha Tribe of Indians, reported it with an amendment and submitted a report (No. 977) thereon.

Mr. ASHURST, from the Committee on Indian Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 2928. An act to amend the act of Congress approved June 7, 1924, commonly called the "San Carlos Act", and acts supplementary thereto (Rept. No. 980); and

H.R. 8494. An act to authorize the Secretary of the Interior to modify the terms of existing contracts for the sale of timber on the Quinault Indian Reservation when it is in the interest of the Indian so to do (Rept. No. 981).

He also, from the Committee on the Judiciary, to which was referred the joint resolution (H.J.Res. 317) requesting the President of the United States of America to proclaim May 20, 1934, General La Fayette Memorial Day for the observance and commemoration of the one hundredth anniversary of the death of General La Fayette, reported it without amendment and submitted a report (No. 971) thereon.

Mr. BARKLEY, from the Committee on the Library, to which was referred the bill (S. 3443) to provide for the creation of the Pioneer National Monument in the State of Kentucky, and for other purposes, reported it without amendment.

Mr. BROWN, from the Committee on Interstate Commerce, to which was referred the bill (S. 3231) to provide a

retirement system for railroad employees, to provide unemployment relief, and for other purposes, reported it with an amendment and submitted a report (No. 974) thereon.

Mr. SHEPPARD, from the Committee on Commerce, to which was referred the bill (S. 3502) authorizing the Oregon-Washington Bridge Commission to construct, maintain, and operate a toll bridge across the Columbia River at or near Astoria, Oreg., reported it without amendment and submitted a report (No. 975) thereon.

Mr. WAGNER, from the Committee on Public Lands and Surveys, to which was referred the bill (H.R. 6179) to amend an act entitled "An act to provide for the leasing of coal lands in the Territory of Alaska, and for other purposes", reported it without amendment and submitted a report (No. 976) thereon.

PRESERVATION OF PRESENT SUPREME COURT CHAMBER

Mr. COPELAND, from the Committee on Rules, to which was referred the resolution (S.Res. 193, submitted by Mr. ROBINSON of Arkansas) authorizing that the room now occupied by the United States Supreme Court be preserved and kept open to the public, reported it with amendments, and the resolution was ordered to be placed on the calendar.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 10th instant that committee presented to the President of the United States the following enrolled bills and joint resolution:

S. 2313. An act providing for the suspension of annual assessment work on mining claims held by location in the United States and Alaska;

S. 2566. An act authorizing the conveyance of certain lands to the State of Nebraska;

S. 2825. An act to provide for an appropriation of $50,000 with which to make a survey of the old Indian trail known as the "Natchez Trace", with a view of constructing a national road on this route to be known as the "Natchez Trace Parkway"; and

S.J.Res. 36. Joint resolution authorizing the President of the United States of America to proclaim October 11, 1934, General Pulaski's Memorial Day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of sundry officers in the Regular Army.

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The VICE PRESIDENT. The reports will be placed on the Executive Calendar.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. NEELY:

A bill (S. 3588) for the relief of Samuel K. Yarnell; to the Committee on Naval Affairs.

By Mr. STEPHENS:

A bill (S. 3589) authorizing associations of producers of aquatic products; to the Committee on Commerce.

By Mr. COPELAND:

A bill (S. 3590) to amend the act of May 9, 1934, entitled "An act to include sugar beets and sugar cane as basic agricultural commodities under the Agricultural Adjustment Act, and for other purposes"; to the Committee on Agriculture and Forestry.

A bill (S. 3591) for the relief of George A. Gerety; to the Committee on Naval Affairs.

A bill (S. 3592) granting a pension to Roman Quinones; and

A bill (S. 3593) granting an increase of pension to John R. Sawers; to the Committee on Pensions.

By Mr. LOGAN:

A bill (S. 3594) for the relief of the heirs of Burton S. Adams, deceased (with an accompanying paper); to the Committee on Claims.

By Mr. THOMAS of Utah:

A bill (S. 3595) to restore to the public domain portions of the Jordans Narrows (Utah) Military Reservation; to the Committee on Military Affairs.

By Mr. COPELAND:

A joint resolution (S.J.Res. 116) authorizing an appropriation for the participation of the United States in the international celebration at Fort Niagara, N.Y.; to the Committee on Military Affairs.

By Mr. JOHNSON:

A joint resolution (S.J.Res. 117) authorizing the President of the United States to present the Distinguished Flying Cross to Emory B. Bronte; to the Committee on Naval Affairs.

DIRECT LOANS TO INDUSTRY—AMENDMENT

Mr. BONE submitted amendments intended to be proposed by him to the bill (S. 3487) relating to direct loans for industrial purposes by Federal Reserve banks, and for other purposes, which were ordered to lie on the table and to be printed.

CHANGE OF REFERENCE

On motion of Mr. SHEPPARD, the Committee on Military Affairs was discharged from the further consideration of the bill (S. 3564) for the relief of Joseph S. Johnson, and it was referred to the Committee on Claims.

REGULATION OF PETROLEUM INDUSTRY—CHANGE OF REFERENCE

Mr. THOMAS of Oklahoma. Mr. President, on April 30, at the request of the Secretary of the Interior, I introduced a bill, Senate bill no. 3495, to regulate commerce in petroleum, and for other purposes.

The bill, in the regular course, was referred to the Committee on Interstate Commerce. The chairman of that committee, the Senator from Washington [Mr. DILL], is very busy and is unable to get to the point where he can have hearings on the bill. The Secretary of the Interior is very much interested in having the bill considered. I have spoken to the Senator from Washington, and it is agreeable to him to have the bill withdrawn from his committee. I have also spoken to the Chairman of the Committee on Mines and Mining, the Senator from Kentucky [Mr. LOGAN]. It is agreeable to him to receive the bill.

I, therefore, ask unanimous consent that the bill be withdrawn from the Committee on Interstate Commerce and rereferred to the Committee on Mines and Mining.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed the bill (S. 3170) to revise air-mail laws, with amendments, in which it requested the concurrence of the Senate.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts:

On May 9, 1934:

S. 2922. An act to amend the act entitled "An act to promote the circulation of reading matter among the blind", approved April 27, 1904, and acts supplemental thereto; and

S. 2966. An act to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the founding of the Province of Maryland.

On May 10, 1934:

S. 2460. An act to limit the operation of statutes of limitations in certain cases.

MONETARY USE OF SILVER

Mr. BORAH. Mr. President, there appeared in yesterday's New York Herald Tribune an article by Walter Lipp-

mann on silver. I think it ought to go in the RECORD. I desire to read, however, a single paragraph from it:

The reason why the single gold standard worked as well as it did was that there were huge gold discoveries during the nineteenth century, and also because the development of modern banking caused the available gold to be used more efficiently. But the single gold standard has never worked well for any long period. From the seventies to the nineties it was unsatisfactory and in very bad repute. After that and until the World War it worked well, for there was much new gold from South Africa. Since the war it has never worked well, and it is perhaps no coincidence that the world depression began about a year after it was reestablished throughout the western world.

It is theoretically possible that there is enough gold in the world to sustain a tolerable price level, if the existing gold stocks were properly distributed and efficiently used, if no gold were sterilized by central banks or hoarded by individuals. But the fact is that gold is concentrated in three countries, that much of it is sterilized or hoarded. This has made gold abnormally valuable in terms of goods, which is another way of saying that world prices are abnormally low.

I ask that the entire article be published in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Herald Tribune, May 10, 1934]

TODAY AND TOMORROW—SILVER

By Walter Lippmann

Whatever view one takes of the silver policy that is now being formulated, there is no reason to be astonished that there is to be a silver policy. In his message of January 15 the President made it quite plain that the gold bill was only "a further step which we hope will contribute to an ultimate world-wide solution" and that he was then "withholding any recommendation to the Congress looking to further extension of the monetary use of silver, because I believe we should gain more knowledge of the results of the London agreement and of our other monetary measures." But he left no doubt that he regarded silver as "such a crucial factor in much of the world's international trade that it cannot be neglected."

Since that declaration it has been certain that there would be a silver policy. There has been uncertainty as to what form it would take, when it would be adopted, how it would be applied. For there are as many different theories about silver as there are about gold. What appears to have happened in the past week is that the President has succeeded in formulating a program which he believes can be successfully administered.

The essential principle of the program, as indicated by the newspaper reports from Washington, is that silver is to be transformed in the United States from a commodity like coffee or zinc into a monetary instrument like gold. This is not a mere matter of raising the price of silver so that silver miners will have more income. It is not a price-raising scheme such as is being used to help wheat, cotton, or hogs. This is a change in the legal status of silver which establishes it as basic money in the United States.

For that reason it will, if adopted, mark an epoch in the history of money. Its effects will be world-wide. For it reverses the course of monetary policy during the past hundred years.

From the close of the Napoleonic wars to the onset of the present depression, silver, which from time immemorial has been money, has been progressively demonetized in one country after another. Step by step the single gold standard has been set up practically everywhere except in China. England was the first great country to abandon silver. That was, I believe, in 1819. Until 1873 England was the only important country on the single gold standard. Then Germany and the United States gave up silver in 1873. By 1878 the Latin Union had given it up. Also the Scandinavian countries. In 1893 the free coinage of silver was discontinued in British India. After the war virtually all the European countries which used silver for small change debased their coins. In the middle twenties India began to get rid of some of its silver. In 1929 a delegation of experts advised China to turn from silver to gold, though that has not been done. Thus for more than a hundred years the world has been engaged in discarding an important part of its monetary metal, namely silver, and has been proceeding to base all currencies and the whole credit of the world on gold alone.

The reason why silver was abandoned in the nineteenth century is that it could not be kept in a practical ratio with gold. In terms of gold it was either too dear or too cheap. If it was too dear, silver went out of circulation; if it was too cheap, gold went out of circulation. Bimetallism did not work, and because nobody knew any other way of using silver and gold except at some fixed ratio, silver was given up.

The reason why the single gold standard worked as well as it did was that there were huge gold discoveries during the nineteenth century and also because the development of modern banking caused the available gold to be used more efficiently. But the single gold standard has never worked well for any long period. From the seventies to the nineties it was unsatisfactory and in very bad repute. After that and until the World War it worked well, for there was much new gold from South Africa. Since the war it has never worked well, and it is perhaps no coincidence that the world depression began about a year after it was reestablished throughout the western world.

It is theoretically possible that there is enough gold in the world to sustain a tolerable price level, if the existing gold stocks were properly distributed and efficiently used, if no gold were sterilized by central banks or hoarded by individuals. But the fact is that gold is concentrated in three countries, that much of it is sterilized or hoarded. This has made gold abnormally valuable in terms of goods, which is another way of saying that world prices are abnormally low.

The fundamental monetary problem of the world is to deflate gold, to reduce the demand for it or to increase the supply of it, so that prices in terms of gold will rise. It is to this problem that the silver policy is addressed. By restoring silver to the status of money in the United States the weight of America will be exerted to break down the monopoly value of gold. Just as gold became more valuable when silver was demonetized, so it is expected that gold will become less valuable when silver is remonetized. It is the belief of the silver people that America's position in the world is sufficiently strong to exert an immense influence on the value of gold. But naturally they hope that other countries will follow suit in restoring silver either on their own initiative or by international agreement.

The question arises: Just how is this thing to work? That cannot be answered definitely until the actual bill is made public. But presumably the principle would be about as follows: The Treasury would stand ready to buy silver from the world at a certain price and in large amounts. How would it pay for that silver? It would pay in gold. It now has more gold than it knows what to do with. So, in substance, the American Government would be selling gold for silver. By the law of supply and demand this should reduce the value of gold and raise the value of silver.

In practice the matter is, of course, not simple at all, and there are many practical difficulties to be overcome. In fact, it may be said that the success or failure of the policy will depend on whether the system is properly or improperly set up. For that reason it cannot be too strongly insisted that the legislation should be introduced, should be submitted to critical discussion, and should under no circumstances be passed in a hurry. Those who are most thoroughly convinced that it is desirable to remonetize silver should be the first to ask for very careful scrutiny of the manner in which it is to be done. They ought not to forget that silver became demonetized in the world because it was improperly adjusted to the monetary system of modern nations. In restoring it, the lessons of the past should not be forgotten.

PHILIPPINE CONSTITUTIONAL CONVENTION

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Territories and Insular Affairs, as follows:

To the Congress of the United States:

I transmit herewith for your information a copy of a radiogram from the Governor General of the Philippine Islands dated May 9, 1934, quoting the text of a bill passed at the special session of the Ninth Philippine Legislature entitled "An act to provide for the election and holding of the constitutional convention authorized by the act of the Congress of the United States of March 24, 1934, appropriate funds therefor, and for other purposes."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *May 10, 1934.*

REGULATION OF SECURITIES EXCHANGES

The Senate resumed the consideration of the bill (S. 3420) to provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce and through the mails, to prevent inequitable and unfair practices on such exchanges and markets, and for other purposes.

Mr. STEIWER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. STEIWER. Yesterday late in the afternoon I offered an amendment, which is printed at page 8507 of the RECORD. I note that the Presiding Officer in disposing of the matter made the statement that the amendment "will be printed and lie on the table." I did not intend the amendment to be printed and lie on the table. I inquire whether the amendment which I offered is the pending question?

The VICE PRESIDENT. The Chair is advised that in the confusion of the moment in the presentation of the amendment by the Senator from Oregon it was understood that the RECORD should show that the amendment was offered by the Senator from Oregon to be printed and lie on the

table. Apparently the RECORD discloses that the amendment offered by the Senator from Wisconsin [Mr. DUFFY] is the pending amendment, but the Chair thinks the amendment of the Senator from Oregon ought to be held to be before the Senate for consideration. Unless there is objection, the Chair holds that to be the parliamentary situation, and that the amendment of the Senator from Oregon is the first amendment to be considered this morning.

Mr. FLETCHER. Mr. President, I have no objection to that course.

The VICE PRESIDENT. The question, then, is on the amendment of the Senator from Oregon [Mr. STEIWER].

Mr. KEAN. Mr. President, I send to the desk an amendment which I desire to offer. I have before me a letter from the Federal Coordinator of Transportation approving the object sought to be attained by the amendment. I also have several letters from railroads asking that they be excluded from the requirement as to making reports to the proposed new commission. If the chairman of the committee will accept my amendment, I shall simply ask to have the letters inserted in the RECORD without taking further time. I ask that the clerk read my amendment.

The VICE PRESIDENT. Without objection, the Senator's amendment will be read for the information of the Senate, but the amendment of the Senator from Oregon [Mr. STEIWER] is the pending amendment. The Chair thinks that then the amendment of the Senator from Wisconsin [Mr. DUFFY], in view of the RECORD this morning, should be considered as the next amendment in order.

Mr. KEAN. I submitted my amendment yesterday morning.

The VICE PRESIDENT. That does not make any difference. There are many amendments which have been printed and are lying on the table, but none of them have preference except by recognition of the Chair. Does the Senator from New Jersey desire his amendment read now as a prelude to his remarks to the Senate?

Mr. KEAN. I do not. It may lie on the table for the present.

Mr. FLETCHER. Mr. President, the Senator from New Jersey presented his amendment, but he did not actually offer it at the time. There was some other matter pending at the time. The amendment has been presented, but it has not as yet been formally offered. However, I have no objection to the Senator discussing it just as if it had been offered.

Mr. KEAN. I merely want to say to the distinguished Senator from Florida that I have the approval not of the amendment but of the principle of the amendment of the Coordinator of Railroad Transportation appointed by Mr. Roosevelt. I also have the approval of counsel for all the railroads in the United States and also some individual letters of approval, all of which bear on the matter. As the railroads were omitted from the operation of the Securities Act, on the theory that they already made full reports to the Interstate Commerce Commission, I think it is but fair that they should be excluded from the provisions of this bill.

Mr. President, I offer the following amendment.

The VICE PRESIDENT. The Senator's amendment is not in order at this time. It may be read merely for information. Does the Senator desire the amendment read for information?

Mr. KEAN. Yes; let it be read and lie on the table.

The VICE PRESIDENT. The clerk will read the amendment for information.

The LEGISLATIVE CLERK. On page 34, line 17, after the words "United States", it is proposed to insert the words "or any State."

Mr. FLETCHER. That is the same as the amendment of the Senator from Wisconsin [Mr. DUFFY], is it not?

Mr. KEAN. That is a provision which was adopted by the House and is in the House bill. I simply want to have it incorporated in the Senate bill.

Mr. President, this is the fifth print we have had of the bill. Many of the clauses still in it are going to be of great aid to bucket shops. Bucket shops are reopening all over the country owing to the prospect of this bill being passed. The brokers of the United States during the last 3 years have lost large sums of money. I have a letter which I should like to place in the RECORD from George D. B. Bonbright & Co., of Rochester, N.Y., enclosing a statement of their earnings for the past 6 years. I ask that the letter may be inserted in the RECORD as a part of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GEORGE D. B. BONBRIGHT & CO.,
Rochester, N.Y., May 7, 1934.

Hon. HAMILTON F. KEAN,
United States Senate, Washington, D.C.

MY DEAR SENATOR KEAN: In these days when there are so many misstatements going around, it occurred to me you might like to have some explanation from a reliable source as to just what Mr. Pecora's recent figures on members stock-exchange earnings really mean.

While I have no way of being absolutely sure, I feel that there is a fair chance that my statements show a cross section of the commission brokers of the country.

The figures to which I especially want to draw your attention are the amount of money divided among my six partners, compared to the amount of money paid out to my employees, and the amount of money collected by the Federal Government and the State government on that year's business. When the figures were finally shown me, I was impressed with the fact that this business has been largely run, I think, for the benefit of my employees. They have steadily received more for their work than was received by the partners. In the case of 1931, they received over $81,000, against the firm's profits of $16,000—about 5 to 1.

I thought it was also interesting as showing what the Government has received on my small business.

I most sincerely wish there were some way of bringing home to our Representatives in Washington what their proposed changes will really mean to the country. It would seem to me, in my own small case, that it would either require that I give up business altogether, or revamp my firm and business in such a way as to reduce very materially the number of my employees.

Respectfully submitted.

Sincerely yours,

GEORGE BONBRIGHT.

Earnings of the stock exchange firm of George D. B. Bonbright & Co. as published by Mr. Pecora

[Analysis in detail]

Year	Gross income	Number of employees	Employees' dependents	Salaries paid to employees	Overhead	Net profit	Approximate Government income and transfer taxes	Approximate State income and transfer taxes
1928	$488,713.18	41	37	$52,871.20	$96,116.22	$339,725.76	$100,000	$60,000
1929	559,096.96	89	63	117,996.63	368,947.14	72,153.14	70,000	55,000
1930	314,507.22	71	55	97,905.76	190,608.09	25,993.37	75,000	63,000
1931	184,266.82	64	51	81,516.71	85,771.18	16,978.93	70,000	60,000
1932	122,885.80	38	33	52,159.10	55,876.23	14,850.47	55,000	40,000
1933	273,778.43	69	73	91,915.62	97,034.27	84,828.54	80,000	70,000
Total	1,943,248.41	372	312	494,365.02	894,353.18	554,530.21	450,000	348,000
Average	323,874.73	62	52	82,394.17	149,058.86	92,421.70	75,000	58,000

Kindly refer to the following paragraphs for further explanation.

Figures pertaining to the income of this firm for the years 1928 to 1933, inclusive, as published by Mr. Pecora, omit the following pertinent facts, namely, that during these years this firm employed an average of 62 people annually. These employees in turn had 52 persons dependent upon them for support, so that during all these years 114 individuals annually received their livelihood through their association with this firm. Salaries paid to these employees during this period averaged $82,400 per year.

Transactions made through this office netted to the Federal Government an average of approximately $75,000 per annum, in

customers' transfer taxes and income taxes paid by partners and those employed. The State of New York derived from this same source during this same period an average of approximately $58,000 per annum. Other expenditures made by this firm, inclusive of overhead for these 6 years, averaged $149,000 per year.

This left an average profit of $92,000 per year remaining to be divided between six partners, who received no other compensation whatever and whose cash investment during this same time averaged more than $1,000,000. This shows a profit yield on invested capital of approximately only 9.2 percent.

These figures include the year 1928, when the firm profit was $339,726. Ignoring this 1 year, the average earnings for the following 5 years were $42,961. During the years 1929 to 1933, inclusive, when the net profit of the firm averaged only $42,961 per annum to be divided between six partners, salaries paid to employees averaged $88,299, or, in other words, the total salaries paid to employees during this period averaged more than 205 percent of the amount received by the partners.

Mr. KEAN. Mr. President, I ask that the other letters to which I have referred be printed in the RECORD at this point in connection with my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEDERAL COORDINATOR OF TRANSPORTATION,
Washington, May 4, 1934.

Hon. HAMILTON F. KEAN,
United States Senate.

MY DEAR SENATOR: I have your letter of April 30 in which you say that the railroads are worried about sections 12 and 13 of the securities exchange bill, and you ask me whether I think they should be excluded from the act. I find it difficult to answer this question, because I know so little about this bill and the reasons urged for its various provisions.

Section 13 relates to the soliciting and giving of proxies with respect to any security registered on any national securities exchange. This is a matter which is not covered by existing regulatory laws relative to the railroads. If there is need for such provisions as are contained in this section, I know of no reason why they should not apply to railroads as well as to other companies whose securities are registered on a national securities exchange.

Section 12 gives the Federal Trade Commission rather broad authority to require information and reports from companies whose securities are listed on a national securities exchange. In view of the regulation of railroad accounts by the Interstate Commerce Commission and the reports which that Commission requires from railroads, I should doubt the need for applying section 12 to the railroads. However, I am not informed as to the reasons for the section, and it may be that in connection with transactions in railroad securities on national securities exchanges, it is thought that information is needed which is not contained in the reports filed with the Interstate Commerce Commission. Or it may be thought that it is desirable for the Federal Trade Commission, in connection with securities, to have on hand reports from railroads which are practically duplicates of those filed with the Interstate Commerce Commission.

I should suppose that the Federal Trade Commission would not go much beyond requiring such duplication of Interstate Commerce Commission reports. In that event the burden upon the railroads would not be substantial. About all that I can say is that I greatly doubt the need for making section 12 applicable to the railroads, but that I hesitate to express any positive opinion on the matter, because of my unfamiliarity with the entire bill and the purposes which it is intended to serve.

Respectfully yours,

JOSEPH B. EASTMAN.

S. 3420, a bill to provide for the regulation of stock exchanges and over-the-counter markets, has been reported to the Senate and is accompanied by a report prepared by the chairman of the committee.

It is the purpose of this memorandum to call attention to the injustice of applying to railroad securities the provisions of sections 12 and 13 of this bill. The general counsel of the Association of Railway Executives made a timely appearance before the Senate Committee on Banking and Currency at the time when a previous draft was under consideration and pointed out the injustice of requiring railroads to make extensive reports and keep expensive records which were mere duplications of reports and records now required by the Interstate Commerce Commission, to which all railroad companies report.

The bill now before the Senate permits securities to be registered on a national securities exchange, but requires the issuer of these securities to furnish a mass of information, set out on pages 29 and 30 of the bill. The information required covers—

(a) The organization, financial structure, nature, and operations of the business.

Under the provisions of the interstate commerce law and the orders of the Interstate Commerce Commission, all this information is furnished by each railroad in its annual report to the Interstate Commerce Commission.

(b) The terms, position, rights, and privileges of the different classes of securities outstanding.

While this information is not called for in annual or other reports, yet the Bureau of Finance of the Interstate Commerce Commission requires every carrier making application to the Commission for authority to issue or reissue stocks or bonds to give this information in great detail. Since practically every railroad has at some time or other applied to the Commission for authority to issue securities, the Commission is already furnished with complete information as to the matters required in subsection (b).

(c) The terms on which their securities have been or are to be offered to the public.

This information is also given in reports to the Bureau of Finance, as set out in our comment upon (b) above.

(d) The directors, officers, and underwriters, and each security holder of record holding more than 10 percent of any class of any equity security of the issuer (other than an exempted security), their remuneration and their interests in the securities of, and material contracts with, the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the issuer.

In the annual report to the Interstate Commerce Commission, on page 103, railroads are required to give the names, addresses, terms of office, etc., of directors and principal general officers. On page 109 of the annual report they must give the total number and voting power of stockholders and names, addresses, and holdings of the 20 largest stockholders. All contracts are reported to the Interstate Commerce Commission, and digests or copies of important contracts and agreements made each year are listed and described on page 529 of the annual report.

(e) Remuneration to others than directors and officers exceeding $20,000 per annum.

Railroads are required, on page 526 of their annual report, to give the compensation of officers and directors receiving $10,000 or more per year, and on page 527 of the annual report railroads must give similar information as to retainers, commissions, fees, bonuses, allowances for expenses, etc.

(f) Bonus and profit-sharing arrangements.

All this is fully covered in various parts of the annual report, and particularly page 527, which, as stated above, covers bonuses, allowances for expenses, commissions, fees, etc.

(g) Management and service contracts.

As heretofore stated, the reports to the Interstate Commerce Commission cover contracts. See page 529 of the annual report.

(h) Options existing or to be created in respect of their securities.

This is one feature which does not seem to be covered by the annual report, but in the case of railroads it is respectfully submitted that the matter is not important.

(i) Balance sheets for not more than the 3 preceding fiscal years, certified if required by the rules and regulations of the Commission by independent public accountants.

Railroads are required to report their balance sheets on pages 200 and 201 of their annual report to the Interstate Commerce Commission. In view of the fact that railroad accounting is so carefully regulated and that all accounts are kept in accordance with the Interstate Commerce Commission's rules and have been for many years, it is respectfully submitted that there is no occasion for the railroads to undergo the expense of reports from independent public accountants.

(j) Profit-and-loss statements for not more than the 3 preceding fiscal years.

Profit-and-loss accounts of the railroads are shown on page 300 of the annual report to the Interstate Commerce Commission.

(3) Copies of articles of incorporation, bylaws, trust indentures, or corresponding documents by whatever name known, underwriting arrangements, and other similar documents of the issuer, etc.

All of these, as we have stated above, are covered by reports to the Interstate Commerce Commission.

Turning now to section 13, which calls for periodic and other reports, it is clear from what has been stated above that the reports now required from the carriers cover every possible phase of railroad operation and railroad finance.

As a matter of fact, under existing law, a study made a few years ago discloses that railroads are required to make 13 types of report to the United States Post Office Department, 18 types of report to the United States Treasury Department, 4 types of report to the United States Department of Commerce, 14 types of report to the United States Geological Survey, 28 types of report to the United States Railroad Administration, 8 types of report to the United States Department of Agriculture, 5 types of report to the United States Labor Board, 2 types of report to the United States Bureau of Mines, 4 types of report to the United States War Department, 1 report to the Alien Property Custodian, 220 types of report to the several regulatory commissions and local boards, and 90 separate types of report to the Interstate Commerce Commission.

It is respectfully submitted that there are, therefore, already in the files of the Government, in one department or another, all the information which could possibly be of service in enabling the Federal Securities Exchange Commission to judge of the value of railroad securities.

It is true that paragraph (c) of section 12 provides:

"If in the judgment of the Commission any information required under subsection (b) is inapplicable to any specified class or classes of issuers, the Commission shall require in lieu thereof the submission of such other information of comparable character as it may deem applicable to such class of issuers."

This clause is not likely to relieve the railroads from the duty of submitting all the registration statements required by section 12, because it cannot be said that the information is inapplicable

to securities issued by a railroad. The trouble is that the provisions of the bill call for expensive and burdensome duplication of reports and efforts.

Referring again to section 13, and particularly paragraph (b) on page 34, the Federal Securities Exchange Commission is given authority to control the items or details shown in the balance sheets and the earnings statements of companies issuing securities and the methods to be followed in the preparation of reports, in the appraisal or valuation of assets and liabilities, determination of depreciation and depletion, and matters of this sort, which are essential features of the accounting system.

As is well known, the Interstate Commerce Commission prescribes in intimate detail the type of accounts which are kept by the railroads, and certainly there should be no conflict between the two.

It is true that the Senate bill contains a clause: "But in the case of the accounts of any person whose accounting is subject to the provisions of any law of the United States, or any rule or regulation thereunder, the rules and regulations of the Commission with respect to reports shall not be inconsistent with the requirements imposed by such law or rule or regulation in respect of the same subject matter." We call attention, however, to the fact that House bill 9323, as now reported, goes further and provides: "Except that this provision shall not be construed to prevent the Commission from imposing such additional requirements with respect to such reports, within the scope of this section and section 11, as it may deem necessary for the protection of investors." (Please note that in the House bill section 11 deals with registration and section 12 with reports, whereas in the Senate bill section 12 deals with registration and section 13 with reports.)

In both the Senate and House bills the Commission created by the Federal Securities Exchange Act is given authority to require reports in addition to those required by the Interstate Commerce Commission, and may prescribe types and forms of accounting which would be supplemental to and in addition to the types and forms now covered by the elaborate requirements of the Interstate Commerce Act.

It seems to us that all this is unnecessary. By subsection (12) of section 3 certain securities are exempted from certain provisions of the act. It will be noted by examining this subsection that exempted securities include securities which are direct obligations of the United States, securities issued or guaranteed by corporations in which the United States has a direct or indirect interest, securities which are direct obligations of a State or any political subdivision thereof, or any agency or instrumentality of a State, "and such other securities (including unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this act which by their terms do not apply to an 'exempted security' or to 'exempted securities.'"

It will be noted that certain provisions of this bill apply to exempted securities. Certain other provisions do not apply to exempted securities. I think you will find upon examining the bill that the public interest will be served by inserting in subsection (12), after the exemption of governmental securities, the words: "or any securities issued by corporations subject to section 20a of the Interstate Commerce Act."

Such an amendment would not interfere with regulation of dealings on the stock exchange, but would relieve the railroads from the burden and expense of making these unnecessary reports as to matters already covered in the numerous reports which the carriers are required to make to the Interstate Commerce Commission.

Mr. KEAN. At the proper time I should like to take up several other amendments I have prepared, but apparently this is not the proper time to do so. Therefore, I yield the floor and allow consideration of the bill to proceed.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. STEIWER].

The amendment was rejected.

The VICE PRESIDENT. The question now is on the amendment of the Senator from Wisconsin [Mr. DUFFY].

Mr. STEIWER. Mr. President, I think there was some misunderstanding in voting down the amendment offered by me when the question was put just now. I understood from the chairman of the committee that he accepted it. I was talking to the Senator from South Carolina [Mr. BYRNES] privately, and he told me he was agreeable to the amendment.

I think there is almost a unanimous agreement among the members of the committee regarding the amendment. I have not taken the opportunity so far to explain it to the Senate, so in that I probably am at fault. I am wondering if we may not have unanimous consent to reconsider the vote just had in order that I may make a brief explanation of the amendment.

Mr. FLETCHER. I think that should be done, Mr. President.

The VICE PRESIDENT. Is there objection to the reconsideration of the vote whereby the amendment of the Senator from Oregon was rejected? The Chair hears none, and the amendment is before the Senate.

Mr. STEIWER. Mr. President, I do not desire to detain the Senate long with respect to the amendment. Its only purpose is to exempt the railroads from the provisions of sections 12 and 13 of the pending bill.

As Senators know, the railroads are already under the very strict regulation and the very close control of the Interstate Commerce Commission. The Interstate Commerce Act not only provides that the Commission shall prescribe their accountancy but it permits the Commission to send field agents and examiners to examine their books and records; and such examinations are constantly made. Some reports are required, I think, as frequently as every month. The securities issues of the railroads are absolutely controlled in that the Interstate Commerce Commission has a veto power over their proposed security issues.

Mr. BYRNES. Mr. President, will the Senator yield?

Mr. STEIWER. Yes; I yield.

Mr. BYRNES. Do I understand that the amendment under consideration applies only to the railroads?

Mr. STEIWER. That is true.

Mr. BYRNES. It is not the additional amendment to which the Senator has referred?

Mr. STEIWER. No. I had considered adding a second clause to the amendment, but it has not as yet been offered.

Mr. BYRNES. I only desire to say to the Senator that I have no objection to the adoption of the amendment which he offered on yesterday and which was shown to the chairman of the committee at that time.

Mr. STEIWER. I thank the Senator; and I am hoping, if the chairman of the committee will express his approval also, that we may have concurrence in the amendment, and save time in debate. Otherwise I shall desire to take considerable time in which to present to the Senate this very important amendment.

Mr. FLETCHER. Mr. President, I do not think that is necessary. The Senator suggested yesterday that he might want to add something to the amendment, and I was not quite clear whether or not he proposed to stand on the amendment he then suggested. If he does, I think we can agree on the amendment. That is to say, we will make no opposition to the amendment. The fact is, I rather thought the situation was covered by the present provisions of the bill.

The railroad companies cannot issue securities without the approval of the Interstate Commerce Commission, as I understand. They have to make reports to the Interstate Commerce Commission. I thought other provisions of the bill would enable them to be exempt from this sort of thing as far as the proposed new commission is concerned, and that that was provided for; but I have no objection to the Senator's amendment.

The VICE PRESIDENT. Without objection, the amendment offered by the Senator from Oregon is agreed to.

Mr. BARKLEY. Mr. President, that is the amendment offered yesterday? It is not the additional sentence that has been put into the printed copy?

Mr. STEIWER. I had not offered the additional language, and I shall not do so until the members of the committee have further time to give consideration to it. The Senate merely acted upon the amendment as offered last night.

Mr. FLETCHER. In other words, the amendment will read:

Provided, That carriers subject to the provisions of section 20a of the Interstate Commerce Act, as amended, shall not be subject to any provision of sections 12 and 13 of this act, except that the Commission may require that such carriers file with it duplicate copies of reports or other documents filed with the Interstate Commerce Commission.

Mr. STEIWER. That is correct.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Wisconsin [Mr. DUFFY], which will be stated.

The LEGISLATIVE CLERK. On page 34, line 17, after the words "United States", it is proposed to insert the words "or of any State."

Mr. DUFFY. Mr. President, last evening, when the Senate adjourned, I was explaining that this matter was brought to my attention by the chairman of the executive committee of the National Association of Railroad and Utilities Commissioners, who happens to be a man from my State who for many years has been on the Wisconsin Public Service Commission.

We have had, as part of that commission, a very efficient and well-working division that handles matters such as are contemplated in a large measure under this bill as far as these reports are concerned. Their fear is—and there are 35 States, I understand, that have similar commissions—that the proposed new commission could very readily require other forms of reports than the form of report which they have had for many years, dealing primarily with intrastate matters, because the new commission is not required to eliminate matters that are intrastate in their general scope. They may do so, but there is no way in which they can be compelled to do so; and these various public-service commissions which have securities divisions feel that this would cause a great deal of confusion so far as many reports they have required for some years past are concerned.

I understand that the Senate committee thought that the amendment might lead to various kinds of reports coming in to the Commission; but it does seem to me that the various State commissions will be dealing in a very large measure with such matters as they have dealt with in the past, and that it would be better to grant that exception.

Mr. FLETCHER. Mr. President, I may say that the committee considered very carefully a proposal of this kind, and spent a good deal of time on it. In view of the fact that so many States have so many different requirements and rules with reference to this matter, we concluded to leave out this language. I believe it is in the House bill. Consequently, the matter will be in conference anyway, and I think we had better reject this amendment.

Mr. NEELY. Mr. President, last Wednesday the Senate rejected an amendment relative to the extension of credit for the purpose of marginal trading offered by the Senator from Ohio [Mr. BULKLEY], which appears on page 8386 of the RECORD. During the reading of the amendment and the debate thereon I was in the Senate reception room conferring with constituents concerning a matter in which they were deeply interested. When notified that the Senate was voting, I entered the Chamber. But I was obliged to cast my vote before it was possible for me to read the amendment. Under an erroneous impression as to the effect of the amendment, I voted against it. Last night I found and improved an opportunity to read the amendment and also a part of the discussion of its merits. I have become convinced that the amendment is thoroughly meritorious and that the best interest of all the people demands that it be adopted. Therefore, in the hope of obtaining an opportunity to support the amendment, I now enter a motion to reconsider the vote by which it was defeated.

The VICE PRESIDENT. The motion will be entered.

Mr. McNARY. Mr. President, as I understand, the pending amendment is the one offered by the Senator from Wisconsin [Mr. DUFFY].

The VICE PRESIDENT. It is.

Mr. McNARY. What was the observation of the Senator in charge of the bill? Did he accept the amendment?

Mr. FLETCHER. I think we should reject the amendment, because, as I say, this language is in the House bill, and it will be in conference anyway. We oppose the amendment on the ground that so many States require so many different rules and regulations that it is impossible to know just what the amendment would cover.

We oppose the amendment.

Mr. KEAN. Mr. President, speaking for the pending amendment, I should like to say that there are only four States in the Union which do not require public utilities to make detailed reports of their affairs to the States. Therefore, this amendment should be adopted, because in many States, as in my State, every public utility is required to make a report practically on the lines of the Interstate Commerce Commission reports.

Mr. BYRNES. Mr. President, I hope this amendment will not be agreed to.

The language of this section provides that the Commission shall have power to prescribe the form in which certain information shall be set forth. The purpose of the amendment is to eliminate from the provisions of the section corporations in any State which are required to submit reports to State commissions. The amendment would absolutely nullify the provisions of the section. It would destroy the purpose of the section in giving to the Commission power to prescribe the form in which information necessary for the protection of investors shall be filed.

After the enactment of the bill it is all the more important that there should be in the Commission the authority provided in this section. An investor will rely upon uniformity of information as to appraisal, as to depreciation and depletion; and if, relying upon that, the bill is so changed as to permit the filing of statements lacking in such uniformity, it will result, as I say, in deception to the investor, and will destroy the very purpose of the section.

Mr. KEAN. Mr. President——

The VICE PRESIDENT. Does the Senator from South Carolina yield to the Senator from New Jersey?

Mr. BYRNES. I yield.

Mr. KEAN. In reply to the Senator from South Carolina I should like to say that his State is one of the few States whose public-service commissions do not require public utilities to file accounts. In addition to that, our experience with the Federal Trade Commission is that the one company which has incurred the expense involved in making lengthy reports to the Federal Trade Commission is the American Waterworks Co.; and I am informed that when a small investor wrote to the Commission and asked for a copy of their report, they said, "If you will send us $265, we will send you the report."

I think it is perfectly self-evident that if a small investor who perhaps has a $1,000 interest wants a report, he is not going to pay $265 for it. Therefore, so far as the public are concerned and so far as the small investor is concerned, the report is absolutely useless. From my experience, and from what I hear of the Federal Trade Commission, I do not think they are of any use to the small investor, whom they were supposed to protect.

Mr. BYRNES. Mr. President, I cannot exactly answer the question of the Senator from New Jersey.

Mr. KEAN. No; the Senator cannot.

Mr. BYRNES. I presume it was a question. I know the position of the Senator, that he does not think the Federal Trade Commission is accomplishing a very useful purpose, and I know his views with reference to public utilities. When he mentions public utilities, he refers to a field which best illustrates the necessity for this provision and the power it confers.

Mr. DUFFY. Mr. President, will the Senator yield?

Mr. BYRNES. I will yield as soon as I finish this thought. In many of the States public utilities are not called upon to make the fullest reports. Certainly they make reports in different forms, and the purpose of this section is to give the Commission the power to remedy such situations as have existed in the field of public utilities. Counsel for the Federal Trade Commission, when appearing before the committee, cited several illustrations which justify the purpose of the proposed act.

I will say to the Senator from Wisconsin that I do not believe that the officials of the various States are going to object to the enactment of this provision. All this section does is to give to the Commission the right to prescribe the

form, in the preparation of reports and in the appraisal and valuation of assets and liabilities, in an attempt to secure statements which will be uniform as to depreciation and depletion. Some corporations have prepared statements, and by juggling the figures in connection with depreciation, have stayed in the black when they should have been in the red, when if a correct statement had been made, the investor would have known the true value, or approximately the true value, of the securities, and would not have lost his money. The object of this section is to make for uniformity.

I now yield to the Senator from Wisconsin.

Mr. DUFFY. At least the Senator cannot say, with reference to my record and my votes, that I have shown any exceptionally friendly attitude toward public utilities such as he suggested with reference to the Senator from New Jersey. I have voted on every occasion in favor of strict regulation of public utilities. I supported, for instance, the Johnson bills. Certainly what has been suggested as to the Senator from New Jersey is not my purpose in offering this amendment.

Mr. BYRNES. I know that to be true, and any statement or intimation otherwise I would be the first to say was inaccurate. The statement I made to the Senator from New Jersey was only prompted because the Senator from New Jersey mentioned the probable effect of this section upon public utilities, and I was describing how it would affect public utilities.

Mr. DUFFY. I want to have it made very clear for the RECORD that I have consistently at every opportunity that has been afforded since I have been a Member of this body voted for strict regulation, and if the Senator will read the last part of the amendment which was suggested, which makes it correspond with the House bill, he will find that it provides:

> Except that this provision shall not be construed to prevent the Commission from imposing such additional requirements with respect to such reports, within the scope of this section and of section 12, as it may deem necessary for the protection of investors.

This certainly shows that there was not anything in my mind except that I believe that men like Mr. McDonald, of the Wisconsin Public Service Commission, and others who have been regulating and are experienced in these matters as they have been in Wisconsin have the practical experience, so that when they assert it to be their conclusion that it would cause hardship to them unless this amendment were adopted, certainly I am sure it is shown that there is no intention to favor groups which will have to make reports under this section.

Mr. BYRNES. Mr. President, I want to repeat that not only would there be no statement by me that the amendment offered by the Senator from Wisconsin was offered in behalf of the public utilities, or anybody interested in them, and certainly there was no intimation to that effect, but I know that such an intimation would be untrue, because I know the Senator's viewpoint.

I was simply pointing out, in answer to the statement of the Senator from New Jersey, who first suggested the effect it would have upon public utilities, that that matter had been discussed before the committee, and that the counsel for the Federal Trade Commission had cited it and referred to the various forms and the various methods of appraisals in the State by public utilities as one reason why it was important that this section should remain as it is written.

I hope the Senator from Wisconsin understands that that was my purpose.

Mr. BARKLEY. Mr. President, will the Senator yield to me?

Mr. BYRNES. I yield.

Mr. BARKLEY. Is not one of the troubles about this amendment the fact that it would make it impossible for the commission even to have a uniform form for making reports and lists by corporations other than utility commissions?

Mr. BYRNES. That certainly is true. The Senator from Wisconsin has referred to one of the public servants of his State. My belief is that the Senator must be mistaken in his viewpoint as to this section, because the object is not to interfere with the public-service commission of any State but simply to prescribe the form of the report which must be followed by the corporations of the States.

It may be that the position of the officials of the State of Wisconsin would be as indicated if the commission to be placed in charge of the administration of this measure should prescribe a different form, and thus cause the State of Wisconsin to change its form in order to accord with the requirements of the commission appointed under the bill. That is the only way that I see in which it could affect this public official.

Mr. BARKLEY. Mr. President, if I may add another observation, if the States had a uniform system of regulation, not only of utilities, but of corporations authorized in the States, it would not be such a difficult matter, but with 48 different jurisdictions, with 48 different kinds of reports, and with the investor desiring to make a fair comparison between the corporations in one State and those in another, the only way by which to enable the investor to do that is to have uniform information as to all of them, and the method by which they arrive at conclusions.

Mr. BYRNES. That is absolutely correct.

Mr. BARKLEY. If this amendment should be adopted, it would make it impossible for the Commission to have that uniform kind of information which would enable an investor to draw a comparison between a corporation in Wisconsin and a corporation in Kentucky, or in some other State.

Mr. BYRNES. The result would be that the investor, relying upon uniformity, and believing that there was uniformity, would be misled.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. DUFFY].

The amendment was rejected.

Mr. STEIWER. Mr. President, in offering the amendment affecting the railroads, I had in mind to present a further amendment and did not do so because in the confusion there was no opportunity for me to present it to members of the committee with whom I desired to confer with respect to it. Under the circumstances, the action taken by the Senate was taken only on that part of the amendment which I had offered last night, and which the Chair had held to be the pending question.

I desire to present the remainder of the amendment, and I send to the desk that part of it commencing with the words *"Provided further."*

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed to amend by adding at the proper place the following:

> *Provided further,* That carriers not subject to the provisions of section 20a of the Interstate Commerce Act, as amended, but subject to section 20 of such act, shall be exempt from the provisions of this section, except that the Commission may require that such carriers file with it duplicate copies of reports or other documents filed with the Interstate Commerce Commission.

Mr. ROBINSON of Arkansas. Mr. President, what class or classes of carriers are embraced within that amendment?

Mr. STEIWER. The Interstate Commerce Act, in section 20, covers substantially all of the interstate carriers, including the sleeping-car companies, the express companies, the telephone companies, the telegraph and cable companies, the carriers operating on inland waterways, and the carriers by pipe lines. In section 20a there is only one great group dealt with, and that is the railroad group.

In section 20a, covering the railroads, concerning which we have already acted, we are presented with the fact that we exempted the railroad carriers, which were not only subject to the requirements of the Interstate Commerce Commission as to accountancy and reporting and audit, but they were also subject to the absolute control of the Intertsate Commerce Commission in the issuance of their securities. There is, therefore, a very persuasive argument for the elimination of the railroads from both sections 12 and 13.

But little reason could be offered for requiring the railroads to comply with sections 12 and 13, save in the sense that they might be required to furnish duplicate copies of information furnished to the Interstate Commerce Commission, because that Commission, as I said earlier in the debate, have an absolute power of veto over the issuance of securities by the railroad corporations.

When we deal with the other carriers which are covered by section 20 of the Interstate Commerce Act we do not find any control in the Interstate Commerce Commission over their right to issue securities. Therefore, it seems to me that the other carriers ought to be subject to section 12; they ought to be compelled to register their securities; and in the amendment which is now offered, I do not seek to exempt them from the application of section 12.

We differentiate between these carriers and the railroads in that we seek to exempt the railroads from the provisions of both section 12 and section 13, and we seek to exempt the other carriers only from the provisions of section 13, which requires submission of periodic reports.

Mr. President, what is the reason for exempting them with respect to section 13? It is merely this—that, although the Interstate Commerce Commission does not control their security issues, it does control their accountancy and requires comprehensive reports. I invite the attention of Senators briefly to a consideration of the provisions of section 20 of the Interstate Commerce Act, as amended, which provides the various requirements to be made of these carriers. In that section it is provided that the Commission is authorized to require certain reports, annual and other reports, from these institutions, and among other requirements are the following:

> Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carriers' property, franchises, and equipments; the number of employees and the salaries paid each class; the accidents to passengers, employees, and to other persons, and the causes thereof; the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet.

Mr. FLETCHER. Mr. President, may I ask the Senator if that applies to all the carriers he has mentioned?

Mr. STEIWER. It does, Mr. President. And may I, in answering that question, say further to the Senator that I very carefully considered the way that both of these proposals have been phrased? It is not my purpose to provide exemption for any carrier in such a way that it will not still be subject to rigid supervision. My only purpose is to exempt those which are subject to the Interstate Commerce Commission, and then only to the extent that they are governed by that Commission. For that reason the amendment I offered pertaining to the railroads named in section 20 (a) of the Interstate Commerce Act relieves them from the provisions of both sections 12 and 13, but in the amendment I now offer pertaining to the other carriers, where the Interstate Commerce Commission does not have control over security issues, I seek to relieve such other carriers only from the requirements of section 13.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. STEIWER. I yield.

Mr. BARKLEY. The Senator will recall that in spite of the requirements and regulations in the Act to Regulate Commerce, certain gentlemen testified before a committee with reference to the organization of holding companies, which are not subject to the Interstate Commerce Commission and which might not be subject to the regulation of the proposed commission if we exempt railroads of all types altogether from the provisions of this act, that they were by means of holding companies able to manipulate the stocks of their companies in a way most disastrous, so far as the public was concerned, and to hold out to the public fictitious values which have no basis in fact.

Will the amendment which the Senator now proposes, taken in connection with the one which has already been adopted, make it easier for holding companies which have been organized in order to get around the law now in force with reference to reports by railroad companies, still to avoid making a showing before either the Interstate Commerce Commission or before the proposed commission with reference to the condition of their stock as represented by ownership in railroads?

Mr. STEIWER. The question is a most proper question, but I can answer it in the negative. It could not possibly make any difference as to the corporation, of the kind that the Senator has in mind, because in framing the amendment I was careful to guarantee that it would not absolve that class of corporations from the requirements of this bill. In the amendment it is stated merely that the carriers subject to the requirements of section 20 of the Interstate Commerce Act are exempted partially from the application of this bill. Therefore, if they are not subject to section 20, of course they obtain no benefit from the proposed exemption.

Mr. BARKLEY. While the carrier itself would not be subject to sections 12 and 13——

Mr. STEIWER. May I interrupt before the Senator goes further? The holding company would still be subject to the act. The carrier, therefore, would report to the Interstate Commerce Commission, and the holding corporation would be obliged to comply with this bill in all its requirements, and I certainly want it to be that way.

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. STEIWER. I yield.

Mr. FLETCHER. The Senator will recall that certain railroad officials desired to bring about certain mergers and combinations of railroads, and the Interstate Commerce Commission would not permit that to be done. They had to make application to the Interstate Commerce Commission, and they were denied the privilege of acquiring competing roads, and so forth. In order to get around that denial the bright lawyers who represent these big corporations devised the scheme of the holding company, and the stock of the railroad companies was transferred to the holding company, and the holding company was enabled to operate their affairs through a trust. Three people managing the holding company—the Pennroad Co.—managed the affairs of the Pennsylvania Railroad Co., and they accomplished the purchase of their connecting lines and paralleling lines, and so forth, and brought about the identical merger which the Interstate Commerce Commission would not allow. It was the holding company which got by with that, and it was devised for that very purpose.

We do not want to leave the holding company exempt from some form of regulation. The Interstate Commerce Act was absolutely defeated by the formation of a holding company, and the Interstate Commerce Commission did not have jurisdiction to prevent the very thing being done, the application to do which had been denied by the Commission to the railroad.

Mr. STEIWER. I remember the transaction to which the Senator from Florida refers. It is my impression that some of those who defied the authority of the Interstate Commerce Commission are now under indictment. I am entirely in sympathy with the viewpoint of the Senator from Florida, but there is nothing in the amendment which is now proposed which would relax in any way the requirements of the law as to a transaction of that kind.

Mr. BARKLEY. Mr. President, will the Senator yield further?

Mr. STEIWER. I yield.

Mr. BARKLEY. Section 20 of the Interstate Commerce Act is not mandatory upon the Interstate Commerce Commission. It is clearly permissive.

Mr. STEIWER. Nor is the requiring of reports mandatory upon the new commission.

Mr. BARKLEY. No; I realize that, but it might be advisable in the exercise of the discretion of the new Commis-

sion to obtain information which is not included in the reports to the Interstate Commerce Commission, and, besides, the reports to the Interstate Commerce Commission are only made annually.

Mr. STEIWER. Oh, no, Mr. President.

Mr. BARKLEY. They are made as of the 30th of December or as of the 1st day of January of each year, and are to cover a 12 months' period.

Mr. STEIWER. That is only one type of reports, Mr. President.

Mr. BARKLEY. Whereas under the provisions of section 13, from which the Senator is seeking to exempt them, more frequent reports than annual reports may be required by the Commission.

Mr. STEIWER. The Interstate Commerce Act permits reports as often as once a month, and I am advised that the Interstate Commerce Commission in many cases has exercised its privilege under the law and has exacted reports as often as once a month from the carriers.

Mr. BARKLEY. Subsection (2) of section 20 of the Interstate Commerce Act says:

> Said detailed reports shall contain all the required statistics for the period of 12 months ending on the 30th day of June in each year, or on the 31st day of December in each year if the Commission by order substitute that period for the year ending June 30.

If the fiscal year ends in January instead of June, or in December, they may substitute that, but the requirement is that they shall report for a 12-month period.

Mr. STEIWER. That is only one requirement, Mr. President. If the Senator will look further, he will find that they may be required to report as often as once each month. Moreover, the Interstate Commerce Commission has not been dilatory in its requirements under this act. They have availed themselves of their authority, and I believe it is true with respect to all the carriers in the categories covered by section 20 of the act that they have required a system of accountancy which the Interstate Commerce Commission has itself approved and devised. There is no such power as that—at least it is contended there is no such power as that in the bill which we are considering and which we soon shall pass as the pending measure. The Interstate Commerce Commission not only prescribes the accountancy system but it sends examiners to the field, who go to the offices and places of business of these corporations and make contemporaneous or current examinations. After the close of the year, and upon the submission of the final reports, the Commission then audits the reports and audits the accounts of the carriers. That is bound to make closer supervision than ever will be had, presumably, under the provisions of the pending bill.

The only purpose of the amendment which I am offering is to relieve these carriers from the necessity of filing different kinds of reports and reports additional to those furnished to the Interstate Commerce Commission. The Securities Commission may still exact from them duplicate copies of all reports which they file with the Interstate Commerce Commission.

Let me suggest, Mr. President, that any additional expenses which are incurred by the railroads in connection with the filing of any reports, are regarded by the Interstate Commerce Commission as proper operating costs, and they are taken into consideration in the fixing of rates, so that finally the American people, the shippers, and travelers on the railroads, would have to pay the cost of any additional requirement placed upon the carriers.

If the proposal which I have offered is not correctly stated, if it is too inclusive or too narrow, if the exemption is suggested in a way that Senators do not approve, I shall be very glad to consider any proposals for the perfecting of the amendment.

I hope I am not dogmatic with respect to this matter. I certainly do not want to be too insistent with regard to the amendment, but seriously I say to Senators that the implications of this matter are of importance. They are of importance to the American people, and nothing will be gained by requiring of the interstate carriers different kinds of reports or a different system of reporting when such reports will not bring any additional information to the American people.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. STEIWER. I am glad to yield to the Senator from Michigan.

Mr. COUZENS. Does the Senator know whether the provision in the second section of his amendment is in the House bill?

Mr. STEIWER. There is in the House bill something rather similar to the first provision of the amendment which has already been agreed to. In my judgment, the Senate's action is superior to that of the House. I am not advised sufficiently to tell the Senator with certainty whether there is anything in the House bill that covers the suggestion I am now making. I believe, however, there is nothing in the House bill that is equivalent to the proposal I make.

Mr. BARKLEY. Mr. President, if the Senator will yield the language in the House bill is—

> *Provided*, That no additional requirements shall be imposed upon carriers subject to the provisions of section 20a of the Interstate Commerce Act, as amended.

Mr. BYRNES. Mr. President, I think the provision is not in the House bill.

Mr. STEIWER. I believe that is correct, though I do not want to speak with certainty about it.

Mr. COUZENS. I hope the chairman of the committee will accept the amendment and let it go to conference so as to find out whether reports filed with the Interstate Commerce Commission will be adequate for the administration of the proposed act by the new commission.

Mr. BYRNES. It seems to me, if the Senator will allow me, that it differs slightly from the language of this bill where it is provided that information asked for shall be such as the Commission may deem necessary for the protection of investors. So far as I have been able to read hurriedly the language of the Interstate Commerce Act, the character of information which the Interstate Commerce Commission may require may be somewhat different. I agree that it would be impossible at this time to express even an intelligent opinion as to whether the Interstate Commerce Act would cover all the information that we seek to secure in this bill. I agree, however, with the Senator from Michigan, it would be well to adopt the amendment and let it go to conference.

Mr. STEIWER. I hope that may be done.

Mr. COUZENS. I hope the conferees will investigate and ascertain whether the reports filed with the Interstate Commerce Commission are adequate. If so then the amendment ought to remain in the bill; but if it should be determined that they are not adequate, then of course the conferees on the part of the Senate could recede.

Mr. STEIWER. That would be satisfactory, and is all I could ask.

Mr. BARKLEY. The act to regulate commerce goes into some detail with reference to what is required by the reports. So does this bill; but there is a difference between the act to regulate commerce and the bill here. It may be that they ought to be harmonized, and in all probability it can be done better in conference than it can be done here on the floor. For that reason it probably would be wise to let the amendment go in the bill.

Mr. FLETCHER. With the understanding that we shall not feel bound to stand for the exact letter in considering this amendment in conference and that if we do not find that it sufficiently meets the situation as we desire by this proposed act we can recede from it, I presume we might as well agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

The amendment was agreed to.

Mr. FLETCHER. Mr. President, I offer an amendment, which I ask the clerk to read.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 7, line 11, after the word "States" and the semicolon, it is proposed to insert the following:

Securities which are direct obligations of a foreign government and which on the date of the enactment of this act are listed on any exchange within or subject to the jurisdiction of the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida.

Mr. FLETCHER. Mr. President, the amendment simply includes, in the list of exempted securities, on page 7, obligations of foreign governments which are now listed on the exchanges of the United States. I think that the amendment is in the interest of American bondholders. It does not apply to new issues at all, but to issues already listed and now held by American bondholders. There is no way of getting the information required as to these securities if they are not exempted except by application to a foreign government. That may bring on some feeling and misunderstanding. There is no way of compelling them to furnish the information, and therefore we would not get it anyway. So I think the adoption of the amendment would be in the interest of American bondholders. They will not be obliged to go through all this machinery in connection with the disposition of such securities which they already hold, but may sell and distribute them without giving information required of other security holders.

I may add that the amendment is suggested by the State Department, which has recommended its adoption. So I offer the amendment.

Mr. HASTINGS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Delaware?

Mr. FLETCHER. I yield.

Mr. HASTINGS. I should like to inquire whether, in addition to the group which the Senator, as I understand his amendment, desires to exempt, another group should not be exempted? My understanding is that there are other securities that have been listed on the stock exchanges for many years, as to which—I do not know whether the corporations have gone out of existence or just what has happened—in many instances there are no persons left who can possibly make the reports that are necessary under this proposed act. I wonder if that has been brought to the Senator's attention or whether he has given any consideration to it?

Mr. FLETCHER. That is a matter the Commission will have discretion to deal with as circumstances may require. That is a matter entirely with the Commission, and I do not think there will be any difficulty about it at all.

Mr. HASTINGS. Is the Senator sure that under this bill the Commission has that right?

Mr. FLETCHER. Absolutely; there is no question about it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Florida.

The amendment was agreed to.

Mr. STEIWER. Mr. President, may I have the attention of the Senator from Florida and the Senator from South Carolina respecting one or two clarifying amendments? I shall not as yet offer the amendments, but on page 51, in line 11, in the section of the bill which provides jurisdiction of offenses and suits, we find, commencing with line 9, the language as follows:

The District Courts of the United States, and the United States courts of any Territory, and the Supreme Court of the District of Columbia shall have jurisdiction of violations of this act—

And so forth.

I have no personal interest in the matter, but it is my recollection that it was the intention of the committee to give to the Federal district courts exclusive jurisdiction of violations under the act, and if that is the purpose of the committe it has not been effectuated by the language used Am I wrong in that recollection?

Mr. FLETCHER. There was no such intention; the intention was just to the contrary. The committee did not feel like limiting the jurisdiction to the Federal courts.

Mr. STEIWER. In other words, the purpose of the committee was to give jurisdiction either to the Federal court or to the State courts of general jurisdiction?

Mr. FLETCHER. Yes.

Mr. BYRNES. May I say to the Senator from Oregon that the language in the bill is the same as that in the Securities Act of 1933? The House bill provides for exclusive jurisdiction in United States courts. If the Senate provision is adopted, the matter may then be considered in conference.

Mr. STEIWER. I have no objection to make concerning it. I will say, though, that my own recollection was contrary to the advice I am now receiving.

On page 45, Mr. President, may I call attention to the word "avoiding", in line 3, and ask the chairman if the committee would not want to substitute the word "evading" for the word "avoiding" at that point?

As the Senator will observe, beginning in subsection (b) in line 22, on page 44, the section is stated in terms of penalties; that is to say, it makes unlawful certain acts. Then, passing over to page 45, there is a limitation in the words "for the purpose of avoiding any provision of this act or any rule or regulation made thereunder."

I think the conventional words to use in a case of that kind are the words "evading any provisions of this act." I do not know when it became unlawful in this country for a person to avoid a law, which may be done merely by the citizen refraining from violation of the law. I am not going to detain the Senate to discuss the matter, but it seems to me that we could very well change the word "avoiding" to the word "evading."

Mr. FLETCHER. I do not think it is very material, although it may be. "Avoiding", of course, means to nullify as well as to escape the provisions of the law.

Mr. STEIWER. In the application of our tax laws the taxpayer may avoid the payment of a tax by refusing to sell his property or to take a profit. In that case he is not violating the law; but if he evades the law, he is regarded as being in a different category. I shall not press the matter further. I thought the chairman probably might want to make that change.

Mr. FLETCHER. I was going to suggest the use of both words, so as to read "avoiding or evading."

Mr. STEIWER. I would have no objection to that.

Mr. FLETCHER. I suggest, then, that after the word "avoiding" the words "or evading" be inserted, so as to cover both.

The PRESIDING OFFICER (Mr. GEORGE in the chair). The question is on agreeing to the amendment offered by the Senator from Florida.

The amendment was agreed to.

Mr. COPELAND rose.

Mr. STEIWER. Mr. President, I understand the Senator from New York [Mr. COPELAND] wants the floor, but I desire to suggest one other clerical change before I yield the floor. On page 22, in line 7, beginning in line 5, we find reference to the prohibition against endorsing or guaranteeing "the performance of any put, call, straddle", and so forth.

On the preceding page we find similar language, but there is a certain degree of definition of the world "privilege." In order to make clear what I mean let me invite attention first, on page 21, to paragraph (1), commencing in line 17. I will read that paragraph:

(1) Any transaction in connection with any security whereby any party to such transaction acquires any put, call, straddle, or other option or privilege of buying the security from or selling the security to another party to the transaction without being bound to do so.

The word "privilege" as there used is defined by the language which follows it. It is merely the privilege of "buying the security from or selling the security to another party to the transaction without being bound to do so."

In paragraph (2), in the last line, on page 21, we find the use of the word "such", so that in its effect it relates to "such privilege", or the privilege defined in the language commencing in line 17, which I have quoted.

In the next subsection, at the top of page 22, we again find the use of the word "such" before the word "put", in line 3, but evidently by inadvertence, in subsection (c), in declaring it unlawful to endorse or guarantee certain things, the use of the word "such" has been omitted. I think it is a clerical error and that the word ought to be inserted at that point. Otherwise at the end of line 7 and the beginning of line 8 we have the use of the word "privilege" without any definition or restriction or anything to indicate the character of the privileges to which reference is made.

Mr. BYRNES. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from South Carolina?

Mr. STEIWER. Certainly.

Mr. BYRNES. The Senator referred to subdivisions 1, 2, and 3 of subsection (b) where the word "such" appears.

Mr. STEIWER. That is correct.

Mr. BYRNES. Subsection (c) is an entirely different section and has entirely different language.

Mr. STEIWER. It is true that it is an entirely different section and has entirely different language. But what character or privilege is referred to in subsection (c) and how and where is it defined? If it does not mean "such privilege" what privilege was intended to be meant by the draftsmen in the preparation of the language? However, I shall not press the matter upon the Senate. I think the word "privilege" as there used is meaningless, and in one way or the other ought to be defined.

Mr. COPELAND. Mr. President, I should like to ask the Senator in charge of the bill a question with reference to the wording on page 3, line 23. Has there been any change in the printing of the bill regarding the language "and any partner of any such firm"? Is that language still in the bill?

Mr. FLETCHER. There has been no change made in that respect.

Mr. COPELAND. It seems to me, if those words are not deleted the individual partners of all firms having a membership on the stock exchange are subjected to the jurisdiction of the commission with reference to their personal affairs. Perhaps those affairs have no reference to the securities business. I think it perfectly proper that the floor member, and the firm of which the floor member is a partner, should be subject to regulation, but, as I view it, it is entirely unnecessary and quite unjust that "any partner of any such firm" should be subject to regulation.

Mr. FESS. Mr. President, to what page is the Senator referring?

Mr. COPELAND. Page 3, line 23. I am trying to make the point that there may be a special partner in the business who has nothing whatever to do with the operation or conduct of the affairs of the concern.

Mr. FLETCHER. Mr. President, my attention was diverted and I did not get the Senator's question.

Mr. COPELAND. On page 3, line 23, I invited attention to the words "and any partner of any such firm". There may be special partners.

Mr. FLETCHER. It includes any firm transacting business as a broker or dealer, of which a member is a partner and any partner of any such firm. We must keep that language in the bill, or we may open the door too wide.

Mr. COPELAND. I think the Senator is wrong. The special partner is not a partner of the floor member. He is not an active member of the firm. He simply has some money in the firm, which perhaps has been left there through a generation or two. But if such a partner is to be subjected to the same supervision as is the firm and the active members of the firm, then every time he wants to mortgage his farm or borrow money or transact some personal business he will be subject to the supervision of the Commission.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. COPELAND. Certainly.

Mr. BARKLEY. On the contrary, if we strike out those words, any firm might have a partner on the side or might create a partner on the side to do certain things, and there would be no supervision whatever of such a partner, as he would not come within the term "member of the firm."

Mr. COPELAND. The stock exchange and its members are to be under the control of the commission, but the man whom I have in mind is entirely outside of active participation in the concern and is not a member of the stock exchange.

Mr. BARKLEY. That very fact brings up the question whether a firm that is a member of the stock exchange might have a partner who could bring about transactions that would be free from regulation, under the guise of representing a firm that was a member of the stock exchange. The difficulty is that we would open the way for evasion by private arrangements between firms which are members of the stock exchange and men who may be partners in the firm, but on the outside, so as to make them in effect subject to regulation.

Mr. COPELAND. No; the Senator is entirely wrong. The bill is intended to regulate the stock exchange and the members of the stock exchange. I am referring to a special partner on the outside who has some money in the concern and has nothing whatever to do with the operation of the brokerage business.

Mr. FLETCHER. But he is a partner in the business.

Mr. COPELAND. If the brokerage concern violated the law, then that firm would be liable to the penalties of the law, and the members of the stock exchange who were in that concern would be liable to the penalties of the law. But I am referring to an individual who is entirely outside the membership of the stock exchange. It seems to me it is unjust that such an individual should be made liable to the penalties of the bill when as a matter of fact he has not a thing to do with the operations of the stock exchange or of any concern which has membership in the stock exchange.

Mr. FLETCHER. He must have something to do with it. He is a partner of a firm engaged in transacting the business of a broker or dealer.

Mr. COPELAND. The Senator from New Jersey [Mr. KEAN], who is familiar with the matter, will tell the Senator that there are special partners or families whose money has been left for a long time in a given concern.

Mr. BARKLEY. This is the definition of the word "member":

> The term "member" when used with respect to an exchange means any person who is permitted either to effect transactions on the exchange without the services of another person acting as broker, or to make use of the facilities of an exchange for transactions thereon without payment of a commission or with the payment of a commission or fee which is less than that charged to the general public, and includes any firm transacting a business as broker or dealer of which a member is a partner, and any partner of any such firm.

In other words, if there is any partner of any such firm, or any member of a partnership which is supposed to be a member of the New York Stock Exchange, which is allowed privileges or allowed to carry on transactions on the New York Stock Exchange, or through a broker or dealer by the remission of all fees or commissions or by the charging of a less commission than is charged the general public, then he would be brought within the term of "member" under this definition.

It is entirely possible, I should say, for a partner who is not a member of the stock exchange, through the membership of the partnership in the exchange, or an individual member of the partnership, to be able to acquire privileges to transact business without the payment of the fees or the commissions which are charged to the general public.

Mr. COPELAND. Let me say that the partner might be the widow of somebody who put money in a special account for this purpose 40 years ago. She is as innocent as a newborn babe in any transaction of the firm. She is not an active member of the firm. She has nothing to do with its transactions. She is entirely separate and apart from the business arrangements of the firm. That is my impression. I desire to ask the Senator from New Jersey if I have stated the matter as it is.

Mr. KEAN. Mr. President, the Senator has stated the situation absolutely correctly. In some cases people have died and left their money in the firm, and their heirs are special partners. They are precluded by the arrangement from having anything to do with the firm. The stock exchange specifies that they may not have anything to do with the firm.

Mr. COPELAND. Is it not a fact, too, that if we were to take all such persons and put them on Robinson Crusoe's island, put them away off by themselves, the situation would not be changed a single bit? They have nothing to do with the operation of the business. They have nothing to do with the stock exchange. They have simply left their money there, just as I might leave my money in a savings bank. That is the feeling I have.

Mr. KEAN. The Senator is quite correct.

Mr. COPELAND. I wish the Senator from Florida would be sufficiently impressed by what I say to let this matter go to conference. If he finds that it is not as I state it, I shall be perfectly satisfied to have the language restored to the bill; but I know that without the amendment a great injustice would be done to many entirely innocent people in this very respect. So I ask the Senator if he will not consent to take to conference an amendment striking out the words "and any partner of any such firm."

Mr. FLETCHER. Mr. President, I can only say that after this bill had been considered by the full committee for a great length of time, and the committee had devoted great care and deliberation to it and had modified it, the bill was referred to a subcommittee, which examined every word and every line of the bill; and I do not feel warranted in consenting to strike out any portion of it.

We talked about this subject in the subcommittee. We discussed it pro and con. We have heard all the arguments for the amendment and against it. I do not feel authorized to consent to the change.

Mr. COPELAND. Mr. President, may I ask the Senator if he recollects that the matter was discussed at all in the committee?

Mr. BYRNES. Mr. President, the language in the bill was intended to cover cases where one partner in a firm was a member of an exchange and a partner who was not a member could do things which the law would not permit to be done by the partner who was a member.

Mr. COPELAND. Do not the things the Senator is speaking about relate to transactions that would have to be carried on by the concern?

Mr. BYRNES. They would be carried on by the partner who was a member of the exchange, but the partner who was not a member could do things of many kinds which would enable the firm to evade the law.

Mr. BARKLEY. He might be allowed to escape the payment of the fees and commissions which the general public pays.

Mr. BYRNES. The object was to prevent him from doing it; to prevent a situation where one member of a partnership would be a member of the exchange, and business would be transacted ostensibly through another partner. I do not see that the language is going to do any harm to a partner of a firm conducting a legitimate business.

Mr. COPELAND. It is going to do great harm to the people I am talking about, and it is going to take that money entirely out of business. It is bound to do it. Those to whom it belongs cannot afford to leave the money there.

I have tried to present the matter dispassionately, with a very limited knowledge of the operations of the stock exchange, in which I do not participate; but I know perfectly well that what I have described to the Senate is exactly what will happen.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. COPELAND. Yes.

Mr. BARKLEY. This looks like a very small sentence to arouse so much controversy as to its meaning. A member is described in this subsection as a person who is allowed privileges on an exchange or is permitted to do business on an exchange through a broker or dealer upon the payment of fees that are less than the general public is charged, or with a complete remission of fees. If that does not apply to any such partner, he does not come within this subsection.

Mr. COPELAND. It does apply, because the committee is putting it in.

Mr. BARKLEY. No; not unless he is allowed some privilege which the general public is denied; not unless he is allowed through the partnership to do business without the payment of any commissions or fees, or unless he is allowed to do business by the payment of a less fee than that paid by the general public. If an outside partner is charged the same as the general public, he does not become a member under this definition.

Mr. COPELAND. Then perhaps the Senator, who is so energetic in his defense of this provision, will tell me the meaning of the words on page 43, lines 9 and 10. How far does that language go in its application—"safeguards in respect of the financial responsibility of members"? Is not that pretty indefinite and broad?

Mr. BARKLEY. If anybody should come within the definition of "member" by being allowed, although not an actual member, but as a partner of a member, some privilege or right not accorded to the general public, of course the language on page 43 would not apply to him.

Mr. COPELAND. In sections 7 and 8 there are all the safeguards that could possibly be thought of; and why, in addition to all those, is this one needed—"safeguards in respect of the financial responsibility of members"?

Mr. President, realizing the utter futility of the motion, I move that the language suggested on page 3, lines 23 and 24, and on page 43, lines 9 and 10, be deleted from the bill.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New York.

Mr. BORAH. Mr. President, I could not quite hear the Senator's motion.

Mr. COPELAND. My motion was to delete the language which I was trying to explain on page 3, lines 23 and 24, after the comma on line 23, "and any partner of any such firm"; likewise, on page 43, lines 9 and 10, the language reading "safeguards in respect of the financial responsibility of members and."

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New York.

Mr. McNARY. I ask to have the amendment stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 3, line 23, after the comma, it is proposed to strike out the words "and any partner of any such firm"; and on page 43, line 9, after the figure "(1)", it is proposed to strike out the words "safeguards in respect of the financial responsibility of members and".

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York. [Putting the question.] The Chair is in doubt.

On a division, the amendment was rejected.

Mr. McNARY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Carey	Goldsborough	McGill
Ashurst	Clark	Gore	McKellar
Austin	Connally	Hale	McNary
Bachman	Coolidge	Harrison	Metcalf
Bailey	Copeland	Hastings	Murphy
Bankhead	Costigan	Hatch	Neely
Barbour	Couzens	Hatfield	Norbeck
Barkley	Cutting	Hayden	Norris
Black	Davis	Hebert	Nye
Bone	Dill	Johnson	O'Mahoney
Borah	Duffy	Kean	Overton
Brown	Erickson	Keyes	Patterson
Bulkley	Fess	King	Pittman
Bulow	Fletcher	La Follette	Pope
Byrd	Frazier	Lewis	Reynolds
Byrnes	George	Logan	Robinson, Ark.
Capper	Gibson	Lonergan	Schall
Caraway	Glass	McCarran	Sheppard

Shipstead	Thomas, Utah	Tydings	Walcott
Steiwer	Thompson	Vandenberg	Walsh
Stephens	Townsend	Van Nuys	Wheeler
Thomas, Okla.	Trammell	Wagner	

Mr. LEWIS. I desire to announce the absence of the Senator from Georgia [Mr. RUSSELL], occasioned by a death in his family.

I also wish to announce the absence of the Senator from South Carolina [Mr. SMITH], the Senator from Louisiana [Mr. LONG], and the Senator from Illinois [Mr. DIETERICH], who are necessarily detained on official business.

I likewise announce the absence of the Senator from California [Mr. MCADOO], caused by illness.

The PRESIDING OFFICER. Eighty-seven Senators having answered to their names, there is a quorum present.

Mr. HASTINGS. Mr. President, I desire to offer an amendment, which I send to the desk and ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 28, after line 8, it is proposed to strike out all down to and including the word "investors" on page 30, line 21, and to insert the following:

(b) A security may be registered on a national securities exchange by the issuer filing an application with the exchange (and filing with the commission such duplicate originals thereof as the commission may require), which application shall contain—

(1) Such of the following information, in such detail, as to the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the issuer, and any guarantor of the security as to principal or interest, or both, as the commission may by rules and regulations require, as necessary or appropriate in the public interest or for the protection of investors:

(A) the organization, financial structure, and nature of the business;

(B) the terms, position, rights, and privileges of the different classes of securities outstanding;

(C) the terms on which their securities are to be, and during the preceding 3 years have been, offered to the public or otherwise;

(D) the directors and officers, their remuneration (including amounts paid, or which may become payable, as a bonus or under a profit-sharing arrangement), and their interests in the securities of, and their material contracts with, the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the issuer;

(E) remuneration (including amounts paid, or which may become payable, as a bonus or under a profit-sharing arrangement) in excess of $10,000 per annum, to any person other than directors and officers;

(F) management and service contracts of material importance to investors;

(G) options existing or to be created with respect to their securities;

(H) balance sheets for the 3 preceding years, certified by independent public accountants or otherwise, as the Commission may prescribe; and

(I) profit-and-loss statements for the 3 preceding years, certified by independent public accountants or otherwise, as the Commission may prescribe.

(2) Such copies of articles of incorporation, bylaws, trust indentures, or corresponding documents, by whatever name known, underwriting arrangements, and other similar documents of, and voting trust agreements with respect to, the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with the issuer as the commission by rules and regulations may require as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security.

Mr. HASTINGS obtained the floor.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Delaware yield to the Senator from Oklahoma?

Mr. HASTINGS. I yield.

Mr. GORE. Mr. President, I wish to say to the Senator that I did not rise with the intention of discussing the details of either his amendment or of the pending bill, but I do wish to submit a few observations in regard to the general principle which ought to underlie and limit legislation of this character, and I wish to say a few words concerning the particular policy which seems to inspire and to characterize the pending proposal.

I desire, first, to eliminate the main points concerning which there seems to be general or substantial agreement.

I believe it is agreed on all hands that legislation of this kind, legislation correcting the admitted abuses and the proven abuses of stock exchanges in general, and the New York Stock Exchange in particular—the big bad wolf—ought to be enacted at this time; that legislation correcting these abuses is necessary and desirable, and that such unfair and indefensible practices, as far as possible, should be prohibited by legislation, although it is easier to forbid than it is to prevent.

Mr. President, I believe there is general agreement, perhaps not universal agreement, that there ought to be a capital market, or that there ought to be a market place in this country, call it stock market, stock exchange, or what you will, I think it is generally agreed that there ought to be a market place where people who desire to sell securities and who desire to buy securities can meet and exercise the right to buy and sell.

I believe it is agreed that there ought to be a market place where the savings and the capital of the people can come to find desired and desirable investments.

I believe it is agreed that there are certain abuses which have grown up in connection with the stock exchanges of this country, certain unfair and evil practices, such as pools, syndicates, and other manipulative and deceptive devices, as they are characterized in the pending bill. There can be no doubt that, insofar as legislation can correct these evil practices, it ought to be done.

My own feeling has been that we should rather seek to correct the abuses of the market place than to prevent the uses of the market place.

I might in this place state that I have less faith than some have in the imperious "Be it enacted" of Congress and the imperious "Thou shalt not." As I said a moment ago, it is easier to forbid than it is to prevent. We adopted the eighteenth amendment only a few fleeting years ago—adopted the eighteenth amendment in order to prohibit traffic in intoxicating beverages. That amendment was repealed but yesterday. It was repealed with a great flourish and fanfare of trumpets, because prohibition, it was said, did not prohibit.

Mr. President, to prevent any act, any offense, any crime, which it takes two to commit, when both participants desire the thing to happen, and when both participants are determined that the thing shall happen, "Thou shalt not" is usually in vain.

The men who wished to sell and the men who wished to buy intoxicating liquors met and did so. People who desire to sell securities and who desire to buy securities will find the ways and means to do so, and will find a place where the transactions which they desire and which they are determined to see happen, will happen.

Mr. President, I make a distinction between the investor, the speculator, and the gambler. The investor is one who has available savings or resources, who desires to invest his resources where the principal will be safe, and where the principal will yield a reasonable and safe return upon the amount invested. As a rule the investor investigates before he invests. He investigates the industry generally, he investigates the particular concern in question, he investigates its resources, its assets, its financial structure, its management, its earnings, and its prospects, and he bases his action upon such investigations. His motive is to have his principal safe, and to have it yield a reasonable return during the period of the investment.

The speculator, as I conceive the speculator, makes the same investigations as the investor. He is as solicitous to ascertain the facts as the investor himself with regard to everything pertaining to the business, its capital structure, its earnings, and its outlook. He buys, however, with a different motive. He does not buy for a long-term investment, expecting a reasonable return during the period of the investment; he buys as a rule with the hope and expectation of selling, and that when he sells he will realize his principal and will realize a profit upon the sale. That, Mr. President, is not an illegitimate purpose or object. That motive has been the dynamics driving forward the progress of this country during its 3 centuries of unexampled development. It is a difference in motive.

The gambler knows little and perhaps cares less about industrial conditions in general, about the particular industry in whose securities he is investing; cares little or nothing about the particular enterprise whose stock he is buying, little or nothing about its financial set-up, its past or its prospective earnings. He generally yields to a contagion. He catches a fever and this fever is contagious.

These periodical panics and depressions have happened for 200 years; often at 10-year periods almost with mathematical precision. There is a psychological reason for that, and as long as men will buy on a rising market and sell on a falling market the recurrence of these panics, crises, and depressions, which have their roots deep down in human nature itself, cannot be prevented.

In 1929 I remember some stocks were selling at 60 times their earning power. I believe a stock selling at 10 times its earning power is regarded as a conservative investment. A stock selling at 15 times its earning power is regarded as being upon the border of speculation. Yet stocks sold in the market at 60 times their earning power. The judge and the janitor, the waitress and the heiress were infected with the fever.

To a certain extent I think the pending legislation is an effort to protect the fool against his folly. I doubt if it can be done. With all his folly, I think, he will outwit our wisdom and beat us to it. Of all "diseases", suicide is the hardest to prevent.

Mr. President, this bill has had an interesting history in its progress through the Senate Committee on Banking and Currency. Whence it came no man knoweth. In that committee it was changed many times, it was altered many times, modified many times, was amended many times, and I feel safe in saying that every time it was amended it was improved. The amendments were improvements. These improvements vindicate the wisdom of public hearings, the wisdom of exchanging and interchanging ideas with respect to legislation as with respect to other matters of common concern. And I pay honor to the venerable chairman of the committee for his patient work in connection with this measure.

The improvements made in this measure by the Committee on Banking and Currency almost vindicate the existence of Congress as a legislative department of the Government. I would not go so far as to say it was a complete vindication. That would be a deference to the past and to experience of which I would not care to be guilty.

When this measure first came forth from "the beautiful isle of somewhere" it was reputed to have teeth, indeed it was said that it was born with teeth in it, and some say—perhaps the midwife can confirm it—that it was born gnashing its teeth. It did remind one of a man-eater shark, and perhaps the draftsman took the man-eater shark, typified in the stock exchanges, as his model in the preparation of this measure. This bill had teeth, and some of its teeth we thought were dragon's teeth. Some of its teeth were tusks, some of its teeth were fangs. I speak for no one but myself, but I doubt not that if this measure had been passed as originally introduced and had ever closed its jaws upon the capital market of this country nothing but wreck and ruin would have issued from its jaws. The original draftsman proceeded upon the belief that the guillotine is the surest cure for a bleeding at the nose.

Mr. President, I am sure we all agree upon this point, that the supreme purpose of all our legislation should be to revive industry, to revive business, to aid in bringing back employment, to assist in putting an end to unemployment. That I think should be our supreme purpose and our supreme object, and all our legislation should converge upon that point.

Unemployment is the supreme problem—I may add is the supreme tragedy, as I see it. Every man and every woman who wants work, every man and every woman who needs work, every man and every woman who is willing to work, every man and every woman who is willing to work and is unable to obtain work, is a living tragedy. That is the tragedy which we should strive to bring to an early conclusion.

Mr. President, when the panic burst upon us, when the depression came upon us in 1929, we had in this country approximately 50,000,000 people who were gainfully employed, who were engaged in gainful pursuits and occupations. This was about 40 percent of our entire population, about two fifths of all our people of all ages and of both sexes. That was the condition when the storm burst upon us. Approximately one half of that number, about 26,000,000, were directly engaged in the various branches of production, the production of the raw materials of industry, the production of the finished products of industry, building and construction work. These employments engaged 26,000,000 of our people who were gainfully employed.

A little less than one half our employed population, about 23,000,000, were engaged not directly in production but in the various branches of distribution and exchange, in the performance of services of various kinds as distinguished from production. They were engaged in distribution, exchange, transportation, communication, wholesale and retail business; they were engaged in banking, in the rendering of professional services, and of domestic services of different kinds. These branches occupied the time and employed the labor of 23,000,000 of our gainfully employed population.

We have today, or we had but recently, some 10,000,000 unemployed. About one half that number were previously employed in the various branches of production, the other half were previously employed in the various branches of service—transportation, banking, and other services—many of which, in fact, most of which, ministered directly or indirectly to production itself.

Mr. President, those who were engaged in production fell into two categories; one class were engaged in producing what the economists call consumptive goods—I borrow the phrase—either raw materials for the factory or finished goods for current use and consumption. Those goods are largely made up of such commodities as foods, feeds, fuel, fibers, fabrics, clothing, leather, rubber, and paper. Barring raw materials, they comprise for the most part articles which are handled in our retail trade, which are sold across the counter to the ultimate consumer. Those industries have made an earlier beginning and a more marked beginning toward recovery than have the so-called "heavy industries." Until recently their progress was much more marked, as it was much more gratifying than that of the heavy industries. Producers of this sort have a quick, a rapid turnover. They have frequent turnovers and producers of this kind, of course, have certain financial requirements and a certain type of institutions serve their requirements. They do and can rely upon short-time credits upon short-time loans. Their needs can be served by commercial banks, and, when they are functioning, they are served largely by commercial banks.

The other class of producers are what are known as the "heavy industries"—those engaged in producing what is called "capital goods"; what the economists, I believe, call "durable goods." For the most part they are engaged in producing for construction work cement, concrete, stone, brick, iron and steel, heavy equipment, and heavy machinery. Those articles constitute, for the most part, the output of the heavy industries, which have shown less signs of improvement and recovery than have the lighter industries. It is agreed by all that the heavy industries are lagging or have been lagging in the return to better times. It is also agreed by all that they must recover before recovery can be general or can be permanent.

They require a different sort of financing from the lighter industries, which have repeated turn-overs. Those industries require long-time financing. They cannot depend upon the commercial banks and short-time loans and short-time credits. They must resort to the capital market and have access to the savings of the people. They must largely rely upon bonds; they must largely rely upon stocks. They depend

upon securities, realizing the required capital from the sale of their securities. Mr. President, this may be one of the reasons why these industries have exhibited a marked tardiness in returning toward prosperity. They have had difficulty in financing and refinancing themselves.

About 1 year ago the Securities Act was passed. It was predicted by many, and feared by some of us, that the Securities Act would serve as a brake upon the wheels of recovery. We feared that the measure was too stringent; that it was too rigorous; that it would seal up the sources of capital. Few, I believe, will now deny that those fears have come true. I believe that the Chairman of the Banking and Currency Committee has introduced an amendment seeking to liberalize the terms of the Securities Act and to facilitate long-time financing and refinancing in this country. Let us see what has actually happened under that measure.

Mr. REYNOLDS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. ERICKSON in the chair). Does the Senator from Oklahoma yield to the Senator from North Carolina?

Mr. GORE. I should prefer not to yield, but I will yield to the Senator.

Mr. REYNOLDS. If I recall correctly, last year, when the members of the Committee on Banking and Currency were considering the so-called "Securities Act", my distinguished colleague from Oklahoma at that time remarked that the passage of such a very drastic bill would, in a sense, retard recovery. I believe that his predictions have come true, and I am reminded of that fact now by the words that have just fallen from his lips, when he indicated that very recently the administration had recommended a modification of the Securities Act.

Mr. GORE. I think, Mr. President, that this, in a measure, if we required any vindication, would vindicate the views of those of us who did not support the Securities Act, and who did not support it for the very reasons which are now assigned for the amendment of that measure.

Mr. FESS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Ohio?

Mr. GORE. I would rather not, because I have a few more points I desire to make and I do not desire to detain the Senate long; but I will yield to the Senator.

Mr. FESS. I will not disturb the Senator. I was going to ask him a question, which I think is right along the line of the remarks which he has been making.

Mr. GORE. Very well. The Senator excites my curiosity. What is on his mind?

Mr. FESS. When the Senator mentions the situation as to durable goods, I think he puts his finger directly on the delicate point of our unemployment situation. I think it is the key log in the entire structure, and if he has a plan by which that jam can be unlocked—and I think he had something in mind when he spoke about long-time credits—it would be an object which I think we should all join in effectuating. The great difficulty is not only due to the wages that are unpaid in the durable-goods field, which is marked by unemployment, but also to the large group of unemployed salaried people heretofore providing services as distinguished from labor. If we could cure that situation, we probably would solve the entire problem. I mentioned some months ago that that seemed to be our difficulty.

I think the Senator also is accurate in his suggestion that penalizing legislation, no matter how wise the purpose sought by the legislation itself, and any legislation which will make it impossible to float corporate securities are bound to strike directly against the recovery of durable-goods industries.

Mr. GORE. Mr. President, I think the Senator's inferences are correct; and I am glad he reminded me of it, because that point had slipped my mind. As I suggested a moment ago, 5,000,000 of our unemployed were previously engaged in production and another 5,000,000 were previously engaged in the performance of services many of which ministered to production. Those who were engaged in performing such services were, of course, auxiliaries, in a sense, to those who were engaged in production. When those engaged in production ceased to turn out their customary output, the need for transportation, wholesale and retail markets, and for other services, ceased and the factories came to a standstill. If we can reopen the factories, if we can revive those heavy industries, if we can reemploy the 5,000,000 men who were engaged in production, and restore their purchasing power, that will almost automatically not only require but demand the services of the 5,000,000 now unemployed and who were previously engaged in the performance of services.

Mr. FESS. That is precisely the point I wanted the Senator to emphasize.

Mr. GORE. Let the 5,000,000 formerly engaged in production renew their output and there will be an imperative economic demand for the services of those who were formerly engaged in transporting, handling, selling, and marketing those products.

Mr. President, we ought largely to concentrate upon the revival of the heavy industries. I do not know what their future or what their fate may be. There are some who think their future is behind them, as Artemus Ward might have said. There are some who think the heavy industries and their output have approached the point of saturation at least in many directions. There are some who believe the States, counties, and cities have constructed all the buildings that will be required for several generations to come, who believe that office buildings and other large establishments in our cities have been constructed until the demand for years to come has been supplied in advance.

There are those who think our public highways have been completed up to the point where further construction can be discontinued. There are many who believe our railroads have been constructed to the point where they will supply our demands for many years to come; that if, indeed, the demand continues constant the supply already is available, and that the railroads will have need to resort merely to replacing and maintaining themselves. That may be true.

But, Mr. President, we must at least have machinery for the lighter industries. We must have machinery to produce the products in the nature of consumable goods, goods for current demand and consumption. That need will be constant. That demand will be constant. That demand must be supplied. That demand must be financed not by commercial banks but must be supplied in the capital markets of the country.

At this point I return to my line of discussion, and I wish to show what has actually happened under the Securities Act. It became a law May 27 of last year. The rules and regulations, as I recall, were promulgated July 27 of last year, so that the first 7 months of last year were not under the control of the Securities Act. The last 5 months of last year were under the control of the Securities Act.

What about long-time financing last year? Private enterprise financed itself out of private resources, floated and sold securities during the first 7 months of last year to the amount of $314,000,000, or about $45,000,000 a month. That was not under the control of the Securities Act. The last 5 months of the year were under the control of the Securities Act and financing of that character during those 5 months dropped down to $67,000,000, or about $13,000,000 a month, about one fourth as much per month as during the preceding 7 months prior to the operation of the Securities Act.

Mr. BARKLEY. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from Kentucky?

Mr. GORE. I would rather not, but I will.

Mr. BARKLEY. I inquire if the Senator attributes that dropping off entirely to the provisions of the Securities Act?

Mr. GORE. No; I do not.

Mr. BARKLEY. In the emergency which existed following the bank holiday and the necessity for setting up machinery to try to start the wheels of industry again, was not the economic situation of the country of such a character that without any Securities Act there would have been a considerable falling off in the amount of money invested in new business?

Mr. GORE. The Senator from Kentucky is wide-awake and is extremely resourceful. That point naturally suggests

itself to him in the abstract when isolated from the facts. I intended to remove that apprehension by stating this further fact: The Securities Act did not apply to Government securities. During the first 7 months of last year Government securities were floated in this country to the amount of $363,000,000, or $52,000,000 a month. During the last 5 months of last year Government securities were floated to the amount of $309,000,000, or $62,000,000 a month. Behind these statistics, Mr. President, these facts and these figures answers the inquiry which naturally suggested itself to the fertile mind of the Senator from Kentucky. There is no doubt that the Securities Act did serve, within limits, as a restriction on long-term financing in this country during the year 1933.

As I was observing a moment ago, these heavy industries must survive within certain limits, must survive in order to supply the lighter industries with machinery and many other demands that are imperative and must be supplied. To the extent that the heavy industries survive they must be financed. There are only two sources from which those heavy industries can be financed. There are only two sources available to which the heavy industries can have recourse in order to provide themselves with the capital indispensable to their survival. What are they?

Mr. REYNOLDS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oklahoma yield to the Senator from North Carolina?

Mr. GORE. I would rather not, but I will.

Mr. REYNOLDS. I should like to ask the Senator how we may ever expect to absorb the 10,000,000 who are now unemployed unless we lend some encouragement to industry?

Mr. GORE. Mr. President, I have a great reliance upon natural economic forces. I think that in the healing art nature does the work. Medicine may stimulate the forces of nature and may accelerate recovery, but medicine does not mend the patient. I have great reliance upon natural economic forces. I think within reasonable limits we can stimulate and accelerate those forces. On the other hand, I think we can retard and obstruct operations and hinder recovery itself.

I return, Mr. President. There are just two sources from which these heavy industries can finance themselves. One is out of the savings and resources of the people; one is out of the private purse of the private investors of the country. The other is out of the public purse.

That brings me to a question which concerns me much.

We hear a great many amusing whisperings around the corridors of the Capitol about those who would like to supersede our democracy, supersede our political and our economic structure, by some form of state socialism, or communism, or Hitlerism, or some other form of collectivism. I make no such intimation; but if I desired to supersede the institutions of our fathers, if I desired to supplant democracy with state socalism or any other form of collectivism, there are two courses that I would pursue, two courses paralleling each other, and—if I may use so novel an illustration—two parallel lines that finally converge. If I desired to substitute state socialism for our economic system, I would insist upon legislation like the Securities Act. I would make it so stringent that private enterprise could not finance itself from private resources. I would seal up the fountains of private finance so that industry could not meet its requirements at the hands of private investors.

Mr. President, if I desired to substitute state socialism for democracy, I would support such legislation as the pending bill was when it first came to the light of day. I would support such legislation as this measure was when it was first laid upon the doorsteps of Congress. I would support such legislation as this bill was when it was first thrown in at the window of the Banking and Currency Committee. I would strangle private enterprise, suffocate it, starve it, until it could not meet its requirements out of the resources of private investors.

On the other hand, in addition to favoring legislation such as I have described, I would favor more liberal legislation, if that be conceivable, providing for the Government to finance private enterprise. I would drive private industry, private enterprise, out of the capital markets of the country, and I would bolt the gates against its efforts. I would drive private industry and enterprise to the Government of the United States; and sooner or later I would expect to see private enterprise nestling upon the knee of the Government and lying supinely upon its breast, drawing from the breast of the Government the pabulum essential to its survival.

That is what I would do.

What have we done? Mark the parallel, which is, of course, a coincidence. What has the Government done to enable our people to borrow money, to enable them to get deeper and deeper into the quicksand of debt, which is almost a synonym for death—the crux of the present problem upon one hand, as unemployment is upon the other?

In 1913–14 we established the Federal Reserve System, founded in the beginning upon sound principles, and addressed to a salutary public object. I think every amendment of that measure has impaired its character and its efficiency. We created a dozen Federal Reserve banks in a dozen different districts.

Last year, or the year before, we breathed the breath of life into a dozen home-loan banks. I may not use the exact designation. We created a dozen home-loan banks in a dozen districts, financed in the first instance out of the Treasury of the United States, refinanced in the second instance out of the Treasury of the United States, which is only another word for out of the pockets of the taxpayers of the United States.

Then we guaranteed the interest on the bonds of those banks. Was that sufficient? There was an overwhelming and unanswerable demand that we guarantee the principal, or the scheme would not stand. We guaranteed the principal; and, Mr. President, I fear me much that the Government of the United States will one day pay the principal, and will one day pay the interest, if the principal and the interest are ever paid. Perhaps we may enable this arm of Federal sovereignty to go into the bankruptcy court and repudiate its debts, and dishonor its credit, and defraud its creditors. The Federal Government itself has changed the terms of its own obligations. Let none be shocked at what I say.

We created 12 farm-land banks in 12 different districts, financed in the first instance out of the Treasury of the United States, refinanced in the second instance out of the pocketbooks of the taxpayers of the United States. Lately, we guaranteed the interest on the bonds. Did that suffice? Still later we guaranteed the principal of the bonds; and I fear me that if those bonds are ever paid, they will be paid out of the pocketbooks of the taxpayers. And so we go on with this merry parade of providing credit for everybody who will accept credit.

That is not all. We establish 12 intermediate-credit banks to make loans to the farmers—a dozen intermediate-credit banks in a dozen different districts.

Is that all?

We have recently established a dozen crop-production corporations in a dozen districts and have authorized those corporations to create hundreds of little lending institutions from one end of the land unto the other.

Is that all?

We have created or authorized 12 cooperative credit banks of some designation—a dozen such banks in a dozen different districts.

Mr. President, but recently a bill was introduced in the Senate to create 12 intermediate banks for the benefit of industry. It was argued that we had 12 intermediate banks for agriculture, why not 12 intermediate banks for industry? There is no sufficient answer to such question. As long as the Government takes its stand upon justice, upon the principle that it will mete out justice to every citizen, whether he be high or low, rich or poor, the Government has a rule of conduct for its guidance in all exigencies—a place where it can say "no."

When you once depart from the standard of justice and begin to dispense favors and begin to mete out privileges,

you no longer have a standard for your guidance, and you have no place where you can ever say "no." That is the pity of it.

But due to the wisdom of the Senator from Virginia [Mr. GLASS] and the chairman, the Committee on Banking and Currency refused to report this bill, refused to bring another litter of banks into being, refused to bring in a bill authorizing the 12 Federal Reserve banks to make loans directly to industry, which would have been a departure from the principle upon which the bank was founded, and a dangerous departure.

Mr. President, the relationship of creditor and debtor between a sovereign and a private citizen is an impossible relationship. It cannot work out well; it cannot work out to the satisfaction of both parties concerned. One or the other, and probably both, will be dissatisfied.

Sometimes favors are curses to their recipients. You cannot satisfy the demand for easy credit with easier credit; that is like drinking salt water—it is like drinking the brine of the sea—it does not quench the thirst, it aggravates the thirst. . I was reading only a day or two ago about Pericles, who installed in Athens a system of distributing public moneys from the public treasury among the people of Athens. I was reading the comment of Plato upon this policy of Pericles, written about a hundred years after the policy was instituted. Plato said that Pericles had converted the people of Athens into an idle, avaricious, self-respectless, gossip-mongering set of paupers and beggars. So said Plato in the ancient days. Of course, we have profited by what happened to them.

Mr. President, a bill was reported only a day or two ago to authorize the R.F.C. to do exactly what the other bill authorized the Federal Reserve banks to do, to make direct loans to industry. Heretofore the R.F.C. has been obliged to lend through financial institutions, or to lend through mortgage concerns adapted to or created for that purpose. That did not go far enough, and it did not go fast enough. The bill was first rejected by the Committee on Banking and Currency, but the campaign was renewed with irresistible vigor. Pressure was brought to bear; the R.F.C. must not be discriminated against, and that bill now stands here upon the calendar, and of course it will pass.

I want to say, in this connection, that I have the highest regard for Jesse Jones. I think he is one of the ablest men connected with this administration, or with the previous administration. I think that for the place he now holds, he is one of the best-fitted men in the entire country, if not the best.

Mr. President, this thing is a disease. It is a creeping paresis. I believe it is said that whenever erysipelas strikes the mucous membrane, death ensues. I hope this financial erysipelas will not reach the mucous membrane of the Nation.

I may astound others when I say that I am in favor of creating another set of financial institutions. Every man wants his particular set or his particular litter of banks. We are preparing a bill in the Committee on Banking and Currency to establish a dozen banks in a dozen different districts authorized, and not only authorized, but directed, to lend money, without security and without interest, to the members of the old fiddlers' union.

The old fiddlers' union has been neglected. It resents this neglect and still more its isolation. Not a thing has been done for it in recent years. In other years Democrats put catgut and fiddle strings on the free list, but along came the irreverent Republicans and placed them back on the dutiable list.

The members of the old fiddlers' union have votes. They have families who vote, and they have influence. We did strike a deadlock on this. Nobody on either side was disposed to make the old fiddlers mortgage both the fiddle and the bow. That would have been an inordinate exaction. Besides, the old fiddlers met in convention and declared they would vote against anybody who voted for any such proposition. So the only question was whether to have them mortgage the fiddle or mortgage the bow only. Personally, I say "fiddlesticks." [Laughter.]

I have said this, Mr. President, in order to reduce this matter to what I believe they used to call in geometry a reductio ad absurdum.

Mr. President, I desire to add one further observation. I wish to express the hope that the Congress will not make the mistake, will not commit the blunder that was committed by Congress in 1864 with respect to legislation of like character to this.

Early in the Civil War this country skidded off the gold standard or rather off a metallic basis. After the greenback measure was passed the country was on a paper standard and remained on a paper standard for some 18 years. When we went on a paper standard gold became merchandise as well as money, and, like any other merchandise, it was bought and sold and dealt in and speculated in, if you please, like any other merchandise in the market place. It went to a high premium, as high as 84 or 85 percent early in 1864.

Importers were obliged to pay customs duties in gold. They had to make provision in advance for the gold which would be required when goods were received at ports. Importers had to make payments for imported goods in gold or in foreign exchange purchased with gold. Necessarily they had to provide themselves in advance or assure themselves in advance that the gold or the foreign exchange would be available when the goods reached port and had to be paid for. As I say, the result was that gold went to a premium of 84 or 85 percent early in 1864.

A great many of our people, many of our statesmen, many of the politicians, jumped to the conclusion that gambling in gold was responsible for all our financial ills. I say "statesmen" shared that conviction because Salmon P. Chase, then Secretary of the Treasury, urged the passage of the so-called "gold bill", and declared that if that measure should not remedy then existing evils he would resign his high position as Secretary of the Treasury.

The so-called "gold bill" passed on June 17, 1864. On that day gold was selling at $1.84, at a premium of 84 cents. Within 1 week gold shot up to $2.84, the premium advanced 100 points in less than a week; the premium doubled in less than a week.

And mark you, gold was being bought and sold in the market place and the law referred to made it a high crime to buy and sell gold for delivery 1 day subsequent to the date of the sale. It made it a high crime to buy foreign exchange for delievery more than 10 days subsequent to the date of purchase. One authority said that the act bristled with penalties. The minimum fine was $1,000; the maximum was $10,000. The minimum imprisonment, I believe, was 3 months and the maximum, perhaps, 2 years or 5 years; and a reward was given to informers who furnished evidence for the conviction of gamblers in gold. Within a week after the passage of that measure gold went up more than 100 points, from 184 to 284.

On the 30th of June, Secretary Chase, true to his word, resigned his office as Secretary of the Treasury. On the 2d day of July, 15 days after the enactment of that economic measure, the Congress repealed the so-called "gold act." One historian said Congress "shamefacedly" repealed the gold act. Within 2 days gold sold off 50 points. After a few days varying with bad news it settled down to the level or to a lower level than that which prevailed at the time Congress made their adventure into economic legislation.

Mr. President, most of our economic legislation like that simply makes it hard to do what has to be done.

I apologize to the Senate for having taken this time. I wish now to call attention to only one further point in the bill, and I shall offer no amendment. I refer to page 2, line 3.

Section 2 of the bill is a stump speech, and it is an eloquent one. I do not discredit it. It declares that transactions on the stock exchange are affected with a national

public interest. I suppose that is to provide a constitutional peg on which to hang the proposed legislation.

Mr. President, the Supreme Court of the United States has held that the question as to whether a property is affected with a public interest is a question of fact, not a question of law. They have held that it depends upon the size and the importance of the property and the use to which it is devoted.

I believe the case of *McFarland* v. *American Sugar Refining Co.* (241 Sup. Ct. Repts.), decided that point. The Legislature of Louisiana undertook to impress a sugar refinery with a public interest. The Supreme Court of the United States held that that was not a question of law but was a question of fact, and since the days of Lord Chief Justice Hale it has, of course, been a recognized principle of law that a private individual by subjecting his property to a public use can invest the public with an interest in the property, and to the extent of such interest, it is subject to regulation. That principle was laid down in the case of *Munn* v. *Illinois* (94 U.S. Repts.), which is the leading case in this country on the subject.

No mere phraseology like that, no mere abracadabra of that sort, can change the character of these transactions. I do not know whether a transaction can be impressed with a public interest or not, as private property dedicated to public use can be impressed. I do not know, and I am not particularly concerned about that point. I merely wished to raise this point so that if the question should come before the Supreme Court, it would not be thought that it had been passed entirely unnoticed.

I wish now to make a request. I introduced a bill on this subject. I shall not offer it as an amendment, but I do ask to have it printed in the RECORD. It is based on the report prepared by Assistant Secretary Dickinson and his committee. I think it would be wiser legislation than the pending bill, but I do not propose it as an amendment. I also ask to have printed following my remarks a newspaper article with the heading, "Plea to Congress for 486,000 Firms." Among the signers of this plea I note the name of a prominent citizen of Oklahoma.

There being no objection, the bill and newspaper article referred to were ordered to be printed in the RECORD, as follows:

(This bill based on Mr. Dickinson's report)

Be it enacted, etc., That this act may be cited as the "Stock Exchange Act of 1934."

STOCK EXCHANGE COMMISSION

SEC. 2. There is hereby established a Federal Stock Exchange Commission (hereinafter referred to as the "Commission") to be composed of the Secretary of the Treasury and the Governor of the Federal Reserve Board, who shall be members ex officio, and three members to be appointed by the President, by and with the advice and consent of the Senate. Not more than two of such appointed Commissioners shall be members of the same political party. No appointed Commissioner shall actively engage in any other business, vocation, or employment than that of serving as Commissioner. Each appointed Commissioner shall receive a salary at the rate of $10,000 a year and shall hold office for a term of 6 years, except that (1) any Commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the Commissioners first taking office after the date of enactment of this act shall expire, as designated by the President at the time of nomination, 1 at the end of 2 years, 1 at the end of 4 years, and 1 at the end of 6 years, after the date of enactment of this act.

LICENSING PROVISIONS

SEC. 3. (a) After 6 months after the date of enactment of this act it shall be unlawful to transmit or cause to be transmitted through the mails or in interstate commerce by any means or instruments of transportation or communication (1) any quotation of prices, or any other advice, report, or information concerning transactions on any stock exchange in any security listed, quoted, or dealt in on such exchange; (2) any offer to buy or sell such security on such stock exchange; (3) any contract, agreement, or memorandum of purchase or sale of any such security arising out of any transaction on such stock exchange; and (4) any security sold or to be sold on such stock exchange, unless such stock exchange shall have first obtained a license from the Commission as hereinafter provided and such license is in effect at the time of such transmission.

(b) Any stock exchange may make application to the Commission for a license, and such application shall be in such form and accompanied by such information as the Commission shall by regulations prescribe. Within 30 days after the receipt of any such application, and after full opportunity for hearing, the Commission shall enter an order granting or denying the license, unless the applicant therefor withdraws the application or consents to postponement of action thereon for a period to be designated by the Commission. The Commission shall grant the license applied for if it finds that the provisions of the constitution and rules of the stock exchange reasonably guard against undue speculative activity and unwarranted manipulative practices on such exchange, and otherwise govern the activities of the exchange and its members so as to afford reasonably adequate protection for investors.

CONDITIONS OF LICENSES

SEC. 4. Each license issued to a stock exchange under this act shall contain the following terms and conditions:

(1) That no change will be made in the constitution or rules of the exchange unless the Commission, after full opportunity for hearing, has first approved such change as being consistent with the requirements of subsection (b) of section 3 for the granting of a license;

(2) That the exchange will make such changes in its rules as the Commission may from time to time require, after full opportunity for hearing, as being necessary to make such rules consistent with the requirements of subsection (b) of section 3 for the granting of a license; and

(3) That the exchange shall take such disciplinary measures as may be necessary properly to enforce the provisions of its constitution and rules.

REVOCATION AND SUSPENSION OF LICENSES

SEC. 5. (a) The Commission shall by order, after due notice and opportunity for hearing, revoke the license of any stock exchange in any case where it finds that such exchange has failed or refused to comply with any of the terms and conditions of its license; except that if, in any such case, the Commission is of the opinion that the revocation of such license will not be in the public interest, it shall suspend the license of such exchange for such period as it deems consistent with the public interest.

(b) Any order of the Commission revoking or suspending a license may be reviewed by the Court of Appeals of the District of Columbia, or the circuit court of appeals for the judicial circuit in which the stock exchange is located, if a petition for such review is filed within 1 month after the date such order was issued. The judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 240 of the Judicial Code, as amended. The review by such courts shall be limited to questions of law, and the findings of fact by the Commission, if supported by substantial evidence, shall be conclusive. Upon such review, such courts shall have power to affirm or, if the order of the Commission is not in accordance with law, to reverse the order of the Commission, with or without remanding the case for a rehearing, as justice may require.

SPECIAL POWERS OF COMMISSION

SEC. 6. (a) The Commission shall have authority from time to time to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of this act.

(b) The Commission is authorized to recommend to stock exchanges licensed under this act such standards with respect to stock-exchange practices, and to gather and compile such information and make such investigations concerning transactions on the various stock exchanges, stock-market operations and practices, and related matters, as in its judgment are necessary and proper in the public interest and for the protection of investors.

(c) For the purpose of all inquiries and investigations made by the Commission under this act, any member of the Commission or any officer or officers designated by it are empowered to administer oaths and affirmations, subpena witnesses, take evidence, and require the production of any books, papers, or other documents which the Commission deems relevant or material to the inquiry or investigation. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing.

(d) The Commission is authorized to appoint and fix the compensation of such assistants and experts, and, subject to the civil-service laws and the Classification Act of 1923, as amended, to appoint such employees, and to make such expenditures (including expenditures for rent and personal services in the District of Columbia and elsewhere and for law books, books of reference, and periodicals, and for printing and binding), as may be necessary to carry out the provisions of this act.

(e) The Commission is authorized to prescribe reasonable fees for licenses required under this act.

TESTIMONY AND PRODUCTION OF EVIDENCE

SEC. 7. (a) In case of contumacy or refusal to obey a subpena issued to any person pursuant to this act, any United States court within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides, upon application by the Commission, may issue to such person an order requiring such person to appear before the Commission, or one of its members or officers designated by it, there to produce documentary evidence if so ordered, or there to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(b) No person shall be excused from attending and testifying or from producing books, papers, or documents before the Commission, or in obedience to the subpena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

PENALTIES

SEC. 8. Any person who knowingly violates any of the provisions of this act, or the rules or regulations promulgated by the Commission under authority thereof, shall upon conviction be fined not more than $10,000 or imprisoned not more than 5 years, or both.

DEFINITIONS

SEC. 9. When used in this act—

(1) The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, or any unincorporated organization.

(2) The term "interstate commerce" means trade or commerce, or any transportation or communication relating thereto, between any State or the District of Columbia and any place outside thereof, or within the District of Columbia.

(3) The term "stock exchange" means a market or meeting place, within the United States, controlled by rules, on or at which only members are permitted to deal with one another on their own behalf or for their customers, and on or at which securities of corporations or joint-stock companies are bought and sold or offered for purchase and sale.

(4) The term "security" means any note, stock, Treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, cerificate of interest in property tangible or intangible, or, in general, any instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

(5) The term "United States" means the several States and the District of Columbia.

[From the New York Times]

PLEA TO CONGRESS FOR 486,000 FIRMS—28 LEADERS HOLD EXCHANGE BILL UNFAIR TO CONCERNS WHOSE STOCKS ARE NOT LISTED—FEAR STRANGLING RULES—LETTER SUGGESTING NUMEROUS REVISIONS IS SENT TO ALL MEMBERS OF CONGRESS

WASHINGTON, May 6.—Twenty-eight prominent industrialists joined today in a strong appeal for modification of the Fletcher-Rayburn stock-exchange regulation bill in the interest of almost half a million corporations the securities of which are not listed on the New York Stock Exchange.

They asserted in a letter to congressional leaders that 486,000 corporations, large and small, do business in the United States, while only 1,365 are listed on the New York Stock Exchange.

The letter was prepared by the National Committee for Modification of Industrial Sections of the Securities Exchange Act. W. B. Bell, president of the American Cyanamide Corporation, is chairman of the committee.

"While ostensibly this legislation is intended only to eliminate speculative abuses from the security exchanges", the letter said, "actually more than 450,000 firms throughout the land with no Wall Street connection would be brought under the strangling regulation of a Federal bureau."

The letter was sent in duplicate to Senator FLETCHER, Chairman of the Senate Banking and Currency Committee, and Representative RAYBURN, Chairman of the House Committee on Interstate Commerce.

The House passed the bill Friday and the Senate is expected to make it unfinished business this week, probably on Tuesday.

FEW CHANGES EXPECTED

The House made few changes in the bill as reported. The Senate is expected to pass the Banking and Currency Committee draft practically in the form reported.

The committee which sent the letter is affiliated with the National Association of Manufacturers and includes leaders in industry in all sections of the country.

"This group", said Mr. Bell, "has been organized to demand for business the justice which is not now a part of the pending stock-exchange regulation bills.

"The statistics of income-tax returns complied by the Commissioner of Internal Revenue disclose about 486,000 corporations doing business in the United States. Of this number, 1,365 are listed on the New York Stock Exchange and on all the exchanges of the country there are not more than 3,000 listed securities. Some 75 percent of these corporations do not have an annual income in excess of $25,000.

"Yet this legislation assumes that in order to obtain the purging of the stock markets, with which industry is in sympathy, it is necessary to require numerous reports from all of these thousands of small corporations that have no connection whatever with the stock market. The additional bookkeeping and accounting which would be necessary to meet the requirements of Federal regulation would place an unbearable financial burden upon many of the small corporations."

THE TEXT OF LETTER

Following is the text of the letter:

"The undersigned are a self-constituted committee representing the business corporations of which they are executives and many other business corporations of this country who have requested that we represent them.

"We are sending this letter to you to express the conviction, which we all have, that a serious mistake has been made by your committee in failing to give heed to the statements which have been presented to you urging further modifications of the provisions of the National Securities Exchange Act of 1934, which affect corporations, in addition to those made by your committees before reporting this bill to the Senate and the House of Representatives.

"The bill in the form presented by both committees retains, however, many provisions which extend its scope far beyond the regulation of exchanges and speculation. The business corporations of this country are no part of the stock exchanges.

"The latter may be the proper subject matter for regulation by Congress in order to prevent in the future the abuses of the past and to control harmful speculation by the public. But there is no justification for subjecting the more than 450,000 corporations of the United States to regulation by the Federal Government through a commission under the powers granted by this bill.

"Of these 450,000 corporations, only a few hundred have securities listed on any national exchange.

CALLS FOR FURTHER AMENDMENTS

"We recognize that both of the committees, particularly the House committee, have made a number of constructive amendments to the bill. We also recognize the helpful results which have been accomplished through the efforts of many of the members of the committees, who have realized the dangers to business corporations of the country from the drastic provisions of the bill in its earlier forms.

"However, it is apparent that a majority of the members of the committees have failed to consider the effect of many of the sections of the bill in its present forms, and to realize that in order to relieve such corporations of unfair burdens it is essential to make further amendments.

"The sections referred to below all require further amendment in both drafts of the bill in order to meet the objections which are expressed in the comments referring to each section. The specific amendments required to each draft to accomplish this purpose will be different, since some of the changes which have been made by one or the other committee partially meet certain of our objections.

"1. Registration requirements for securities and periodicals and other reports (secs. 12 and 13, Senate bill; secs. 11 and 12, House bill).

"These sections impose burdens on corporations by requiring information which is not necessary to protect investors and much of which is of a confidential nature, which may become public under the later section which relates to the public character of information. The power given to the Commission to dictate the form and detail of the reports required by these sections is too broad and unless greatly limited would result in burdensome regulations which would add excessive costs to business enterprises. A corporation should have the unqualified right to withdraw its securities from registration on reasonable notice.

SECTION ON PROXIES CRITICIZED

"2. Proxies (sec. 14, Senate bill; sec. 13, House bill).

"Paragraph (a) of this section does not in any way relate to speculation or regulation of security exchanges. It gives the Commission a broad power to regulate stockholders' proxies and so to interfere in the conduct of business corporations.

"3. Over-the-counter markets (sec. 15, Senate bill; sec. 14, House bill).

"This section affects more than 450,000 corporations which have no listed securities. It gives the Commission power to require registration of such securities. It therefore subjects to the Commission's control every corporation whose securities are sold through dealers or brokers on any market no matter how limited or how local. This section should be omitted.

"4. Directors, officers, and principal stockholders (sec. 16, Senate bill; sec. 15, House bill).

"This section should not apply to stockholders. It is unwise to discourage large investments in stocks of industrial corporations. Such stock holdings create interest in corporate affairs which is both a check on and an aid to management. In the Senate bill the provision, subsection (b), imposing liability is unfair and should be omitted.

"5. Liability for misleading statements (sec. 18 Senate bill, sec. 17 House bill).

"The liability under this section should be limited to false statements. Liability for misleading statements in the cases covered by this section is unwarranted. The provision in the Senate bill in regard to omissions is particularly dangerous.

WOULD LIMIT LIABILITY

"6. Liability of controlling persons (sec. 20 Senate bill, sec. 19 House bill).

"This section should be substantially modified. Liability of a controlling person should be limited to cases where the controlling person makes use of other persons in order to evade the act.

"7. Public character of information (sec. 23 Senate bill, sec. 23 House bill).

"This section should be more strictly limited. The Commission should only have power to disclose information which is essential to protect investors. In no event should it have power to reveal information which will damage the business of the corporation through disclosures of confidential information to its competitors, both domestic and foreign. Such disclosure is certain to result in loss to investors.

"8. Validity of contracts (sec. 28 Senate bill, sec. 28 House bill).

"The provisions of paragraph (b) of this section may render any number of commercial contracts void, with disastrous results on innocent parties. The effect of the act on contracts made in violation of its provisions should be governed by ordinary common-law principles.

"9. Penalties (sec. 30 Senate bill, sec. 32 House bill).

"These provisions are unnecessarily severe. Congress assumes a serious responsibility when it gives to a commission extraordinary power to make rules and regulations the violation of which is made a criminal offense punishable by excessive fines and imprisonment. In effect the bill gives the Commission power to write a criminal code.

OTHER CHANGES SUGGESTED

"In a letter of this kind we have limited our comments to the more important provisions of the bill, but additional changes in the wording of other sections are required to make them conform to the purpose of the changes proposed above, the details of which cannot adequately be set forth herein.

"These proposed changes in the bill will not weaken those provisions of the bill which are appropriate and essential to the proper regulation of the stock exchanges of the country and speculative trading on these exchanges. They will, however, relieve the business corporations of the country from those burdens which would increase substantially the cost of their operation.

"In its present form the bill sets up a barrier to the free flow of private capital into industrial enterprise, so essential to reemployment of labor and to the furnishing of capital for immediate recovery. We urge the passage of amendments necessary to accomplish our objectives.

"In order that the Members of the Senate and the House of Representatives, before whom the drafts of the bill are now pending, may be fully informed concerning the point of view with reference to them, we are sending a copy of this letter to each Member of Congress."

SIGNERS OF LETTER

The letter was signed by the following: W. B. Bell, chairman, president American Cyanamid Co., New York; George M. Laughlin, chairman Jones & Laughlin Steel Co., Pittsburgh; Edgar M. Queeny, president Monsanto Chemical Co., St. Louis; W. C. McFarlane, president Minneapolis-Moline Power Implement Co., Minneapolis; F. C. Rand, chairman International Shoe Co., St. Louis; H. S. Wherrett, president Pittsburgh Plate Glass Co., Pittsburgh; John H. Wiles, chairman Loose-Wiles Biscuit Co., Kansas City; Louis K. Liggett, president United Drug Co., Boston; James F. Bell, president General Mills, Inc., Minneapolis; Donald Comer, president Avondale Mills, Birmingham; Theodore Swann, president Swann Corporation, Birmingham; Thomas H. McInnerney, president National Dairy Products Corporation, New York; S. Bayard Colgate, president Colgate-Palmolive-Peet Co., Chicago; F. W. Lovejoy, president Eastman Kodak Co., Rochester; E. M. Allen, president Mathiesen Alkali Co., New York; Frank Phillips, president Phillips Petroleum Corporation, Bartlesville, Okla.; Charles R. Bottoroff, president Belknap Hardware & Manufacturing Co., Louisville; Rolland J. Hamilton, president American Radiator Co., New York; Daniel Peterkin, president Horton Salt Co., 208 West Washington Street, Chicago; Edward Clark, president Cerro de Passo Copper Corporation, New York; George E. Scott, American Steel Foundries, Chicago; Samuel W. Reyburn, president Associated Dry Goods Corporation of New York; R. S. Shainwald, president the Paraffine Companies, Inc., San Francisco; Charles Bancroft, president United Shoe Machinery Co., Boston; W. F. Rockwell, president the Timken-Detroit Axle Co., Detroit; C. A. Liddle, president Pullman Car & Manufacturing Co., Chicago; Sewell Avery, president United States Gypsum Co., Chicago; T. M. Girdler, chairman Republic Steel Corporation, Cleveland; F. A. Merrick, president Westinghouse Electric & Manufacturing Co., New York.

Mr. FESS. Mr. President, I am of opinion that all Senators who have listened to the remarks of the Senator from Oklahoma [Mr. GORE] will agree with me that they have heard one of the most logical as well as one of the soundest and sanest addresses that has been delivered in this Chamber for many a day. We always listen to the eloquent Senator with appreciation, as well as edification, but he has dealt today with more or less of an abstract view of an abstract question, and has strongly reinforced his points by citation of concrete measures which have already been enacted into law.

When those who take the time to read the RECORD read what the Senator from Oklahoma has said, they will find an unusually accurate recital of what has taken place in the form of legislation, in an attempt to relieve, if not to cure, a situation which affects our credit and financial system.

The Senator from Oklahoma has emphasized the principal ills from which we are suffering, and which many people think can be cured by artificial methods, totally ignoring all the force of economic law.

The Senator is a man who is not easily swayed by arguments in favor of artificial methods of cure. He made several statements which ought to have further study by our people when they are thinking of the conditions under which we are living.

The Senator spoke of the only two sources of funds for investments: One is from the income and savings of the people; the other from the Public Treasury. Mr. President, I should like to adopt the speech of the Senator from Oklahoma as my own. I wish I were able to present such a speech. I only take the time now to make a little further comment on one or two points which he did not develop.

The question of the source of funds for investments—with which we are dealing in this bill—ought to have had further light thrown upon it; and if it had not been for the fact that I did not want to interrupt the Senator, I should have asked him the question so I would have gotten his judgment on it: What proportion of the savings and income of our people, which ought to be the primary source of all investment, is now being absorbed by Government financing? It must be obvious to everyone that in the financing of the Government the money must come from some source; and if Government financing goes far toward absorbing the income and savings of our people, then what will be left for actual investment in industry, and how will industry recover in view of that situation? I should like very much to have had amplification of that particular problem which is before us from a Senator with such a mind as that of the Senator who has just spoken.

It is true that in normal times Government obligations, if they must be met by borrowing instead of taxation, take the form of long-term financing. Ordinarily every substantial financial institution of the country which desires its reserves in a safe place puts them in the long-term financing of Government; but there is not any man of any thoughtfulness who does not know that now such financing has ceased to be an investment on the part of any great banking institution in America. Instead of the Government being able to meet its obligations by means of long-term financing, it has to resort to the short-term financing, and there is no one who does not know that short-term financing absorbs the income and savings of our people, while if the Government's needs were taken care of by means of long-term financing the income and savings of the people would not be so largely absorbed in that manner. As we are abandoning long-term financing because of necessity and confining ourselves to short-term financing, we are absorbing the liquid assets in the form of income and savings which have always been the basis of industrial investments.

We are now discussing the question of the floating of securities and whether by this proposed legislation we shall clog the channel through which they flow. Such securities would naturally depend in ordinary conditions upon the income and savings of the people of the country, which, if absorbed by the Government's financing, will not be available for such investment. That is the particular phase of the discussion of the Senator from Oklahoma upon which sometimes at his leisure I should like to have him expand, because it is, in my judgment, one of the most serious financial situations confronting us today.

Mr. President, the danger from legislation such as is now pending is not so much contained in the wording of the legislation. Rather it results from the uncertain state of mind which the whole country is in which leads us to legislate from impulse rather than from judgment. That was evidenced in the passage of the National Securities Act. There had been so much done which ought not to have been allowed during the boom time that there was a profound prejudice against the buying and selling of securities as well

as the issuance of securities, and when the suggestion came before us, which had been before the public for months previously, that something should be done in the form of legislation to correct abuses with respect to floating securities, there never theretofore having been enacted anything like a national "blue sky" law, there was a general response to that suggestion There were very few who did not rather sympathetically regard the proposal.

I happened to be a member of the Ohio constitutional convention which gave sanction to one of the first "blue sky" statutes to be enacted in any State of the Union. I recall that when we were discussing it well-poised men wanted to know how far we were going to go in an attempt to protect the foolish man who never seemed to be impressed with "let the buyer beware." While that question did appeal to some of us, we were impressed with the advantage being taken of the public in the floating of securities which really had no sound basis. Consequently I have been more or less sympathetic with blue-sky legislation. But such legislation had up to recent times been limited to the States.

Biills to effect "blue sky" legislation often have been introduced in the House. One Member from Illinois persisted in his endeavors to have national recognition given to that form of legislation, but he never could induce his colleagues to go to the extent of putting it on the statute books.

This sort of legislation, therefore, is not new. It has been before the country in the form of State legislation for years and years. There is some justification for it, but it ought never to be the result of impulse, and its prime objective should not be to penalize. We ought not to put our eye merely upon the misfeasance and lose sight of the real structure which we may destroy because we do not like what someone has done. That is the danger in the National Securities Act.

I was sympathetic with that measure, but it went to such extent that, of course, I could not support it. I was one of the Senators who withheld his support for a time, until there was a slight modification, and finally under the pressure of that line of argument which would indicate that "this or nothing will be passed", I voted with reluctance for the bill.

The very thing I was afraid of has taken place. The thing that I ought to have known would occur when legislation is passed under such stress, did occur, and the legislation went too far in its effect.

The PRESIDING OFFICER (Mr. ERICKSON in the chair). The hour of 2 o'clock has arrived, after which time, under the unanimous consent order, no Senator shall speak more than once or longer than 15 minutes on the bill, or more than once or longer than 15 minutes on any amendment that may be pending, or may be offered.

Mr. FESS. Then I shall be permitted to proceed under the limitation, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. FESS. Mr. President, the law to which I refer was too rigid. The Senator from Oklahoma has related the facts about the literal clogging of the channel for floating corporate securities. We ought to have known that that would be its effect, and that whatever obstructs or prevents the floating of corporate securities strikes at the very heart of recovery and is directly against it.

Take the case of the production of what are known as heavy durable goods, as discussed by the Senator from Oklahoma. The production of such goods cannot be wholly financed by borrowing. There is not a bank in America that will loan to an institution that is in the red. Under the law they are forbidden to do so, and no manager of a bank would permit it. A reorganization might be necessary in order to enable an industry running "in the red" to obtain relief; and unless there shall be some way by which securities may be floated there can be no increase of an old business and there will be no beginning of a new business.

Let me illustrate what I mean. Let us say a new business is started; it wants to borrow its initial capital; but no bank is going to loan on the good will of that new institution, and no bank will loan on its future prospects. However, under proper management, that corporation could issue its stocks, preferred and common, limiting the preferred issue to its actual value, and permitting the common stock to express its prospective value. People who are informed as to the enterprise, and have confidence in it, would be willing to purchase securities issued by such a corporation which has great promise though not enough assets, to begin with, to secure financial assistance from any bank. Under the National Securities Act such issuance of securities is virtually clogged entirely.

That act has had the effect of blocking the issuance of necessary corporate securities, without which there will be neither revival nor any increase in business; and yet, through pride of opinion, with even the President suggesting that there ought to be a modification of that act, we are not able to have it brought before us for consideration. Why is that? It is because of the impulse which is the ruling one in the American mind today. We may be able to get some modification of the Securities Act along the line of what is absolutely essential by an amendment suggested by the Chairman of the Committee on Banking and Currency being attached to the pending bill, but there is a hesitancy, as is obvious to everyone, to reconsider the bill in the form in which we passed it a year ago and to modify it. That is why we ought to go slowly with legislation such as is now pending before us.

I appreciate what the Senator from Delaware [Mr. HASTINGS] said the other day in his appraisal of the force of public opinion on legislation to the effect that if it were not for the state of mind in which we were we would not pass such an act as this which is now proposed. There was a rather striking example of the opposite of that statement here the other day when the amendment was offered to forbid dealing in margins. That amendment struck at precisely the most unpopular practice of the stock exchange, and appealed almost to every individual who has studied stock-exchange operations. The purpose of that amendment was to prevent a practice of the stock exchange which is the subject of universal criticism. However, there was not anyone here who could properly estimate the effect of that amendment had it been adopted. The sympathy of Senators on this side of the aisle would be favorable to it if it should not be so framed as to go further than was the intention of the proponent of the amendment. When, however, it is realized what effect on a great institution the limitation of what we all condemn might have, not knowing how far beyond that the proposed measure might go, we hesitate. If the action of this body were wholly determined by popular acclaim, there would not have been a single vote against that amendment, because it would have been the popular thing before the public to have done.

However, I am convinced that there is great value in the stock exchange as an institution. I should not want to emasculate it. I know, as does everyone else, that if we should forbid a certain practice that has come to be common on the New York Stock Exchange it would be only 1 month until that activity would be transferred to Montreal, across the border. If I knew that there was no value or advantage to be lost, and a movement of that kind were only for good, I would not hesitate; but I am afraid, without proper information, to go to the extent of destroying probably an institution which I think is of value.

Mr. President, I cannot join the group who feel that there is no good purpose served by the stock exchange. I am of the opinion that there is great value in having a place which is properly organized where one may sell securities issued by new or old corporations. I say that as one who never saw the operations of the exchange; never, to my knowledge, have I bought or sold anything as the result of the operations of the stock exchange; but the question is involved whether we should keep within the bounds of caution when we are legislating in the form of providing penalties.

Mr. President, there is another point of which we must not lose sight. We all desire recovery. There is not any-

thing so important to America today as recovery. Our only difficulty is in finding the way by which it may most speedily be brought about. Some of us are afraid to justify any means which may be employed merely because of the end desired, and especially are we afraid if the end is not assured. We sometimes proceed on the theory that we want to accomplish a certain result, and we would choose other methods if we could avoid those suggested, but we cannot do so, and therefore we adopt questionable methods in order to attain a justifiable end. That is always of doubtful wisdom; and to assume that such a course is justified when we are not certain that the means will bring about the desired end is certainly not wise. That is our difficulty here.

There is no one who does not want to cure the abuses of the stock exchange, unless perhaps it be some person who wants to profit personally on the stock exchange. Probably there are people of that kind, but I am speaking now of Senators and Representatives in Congress. There are none of them who do not want to cure such abuses. The only question is whether in our attempt to do that we will not do more harm than good.

I wish to call attention to the fact that in our desire for recovery we are under a terrific burden to take care of conditions during the interim before recovery shall have returned. We are under a terrific burden in the form of relief; we are running a deficit this year of nearly seven and a half billion dollars; we are paying out that much more than we take in. That is caused by our effort to meet the unusual problems which confront us; it is so in spite of the fact that we are increasing the burdens of taxation. The House sends to us a bill carrying $280,000,000 of new taxes. In this body we increase it to nearly $500,000,000. It goes to conference and comes out carrying $417,000,000. That, without doubt, is essential and in a degree it relieves somewhat the deficit, though not in any material way. But think of the small part of the enormous deficit the Government must meet that will be satisfied by this increased taxation.

What we are doing is to increase constantly the burdens on business in the form of new taxation in the hope of balancing the Budget. We will not balance the Budget because it is impossible. That cannot be done by taxation. We will have to take care of it by future borrowing. Notwithstanding that we cannot balance the Budget, we will continue to increase taxation. To the degree that we increase it we make the burden on business that much heavier. Every time we add new expenses to governmental operations we place heavier burdens upon business.

That is on the one side. On the other side we strike at business by making it impossible for the business man to freely float the securities necessary if he is to put himself on a basis where he can pay any tax, particularly the increased taxes. We are trying by a form of penalization to cure some of the malfeasance in an organization whose members, whether they violate the rules or not, have no command of or brake upon the ambitions or desires of people to speculate. I do not know how we are going to control that situation. We can destroy the work of the stock exchange if that is desired, but I do not believe that would be a wise course to pursue.

The PRESIDING OFFICER. The Senator's time on the bill has expired.

Mr. FESS. I will take my time on the pending amendment.

Mr. President, I am speaking of our acting on impulse here. We have our eye on gambling. We want to stop it, but the danger is that in order to prevent somebody doing what he should not do we may go to the extent of destroying the very structure we would like to preserve. Of course, those who think there is no function that is justifiable in the stock exchange will have no alarm because of anything of that sort; but those of us who believe there is a function of national importance in maintaining a stock exchange upon which securities may find a market, consider it quite necessary to be guarded in our legislation, and that instead of having a punitive element as the imperative and major item of legislation, we should keep in mind maintaining the structure. That was an error into which we fell in the consideration and passage of the National Securities Act. If we fall into a similar error here, as I think we are doing, it will not be a year until we will be called upon to modify what we are about to do.

I desire to repeat what I said a while ago. The only way to recovery, which is the big thing in the minds of everybody, is to find the means whereby industry and business can employ labor. There is no other way. Any other way is merely relief in the name of reform, but it is not recovery. There is no better way to employ the unemployed on a sound basis, without bankrupting the Treasury of the United States, than to find a way for business enterprise to pursue and increase its activities. We must, therefore, depend upon the man who is paying the taxes. We are now increasing the burden of taxation upon him, and, on the other hand, making it more and more difficult for him to make the necessary money with which to pay his taxes.

If we could eliminate the evils we want to get rid of without destroying the organization which we should like to maintain, I would go along with those who are pressing the bill. But I pursued that course in connection with the securities against my own better judgment. I now see the result of that course. I see the apparent impossibility of inducing those who were back of it to admit the error and to seek an improvement of that act by amendment. There are those in this Chamber, I assume, who will not admit there is anything wrong with the National Securities Act and who argue against any amendment of it on the ground that such proposals are mere propaganda by selfish interests.

We will have exactly the same result, I fear, under the stock-exchange control bill now before us. If we would put the emphasis upon trying to maintain the structure without emasculating it in the effort to prevent some malpractice that has taken place in the past, I would have sympathy with it; but as it is I cannot, unless substantial amendments are made, support the measure. I made the mistake when the National Securities Act was before us under a protest that I offered at a time.

The twelfth and thirteenth sections of the bill before us should be amended in the form suggested by the Senator from Connecticut [Mr. WALCOTT]. Some modifications suggested by the Senator from Oregon [Mr. STEIWER] have already been made, but many he suggested have been rejected. If the bill could be amended so we could be sure the stock exchange would still remain as an instrument for the sale or flotation of necessary securities, I would not hesitate to support the bill, but as it is written I cannot give my approval to it.

CHICAGO WORLD'S FAIR CENTENNIAL CELEBRATION

Mr. LEWIS. There are upon the table the amendments of the House of Representatives to the Senate bill relating to the Chicago Exposition and the appropriation therefor which I ask the Chair to lay before the Senate.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 3235) to amend an act entitled "An act providing for the participation of the United States in A Century of Progress (the Chicago World's Fair Centennial Celebration) to be held at Chicago, Ill., in 1933, authorizing an appropriation therefor, and for other purposes", approved February 8, 1932, to provide for participation in A Century of Progress in 1934, to authorize an appropriation therefor, and for other purposes, which were, on page 2, line 9, after the word "buildings", to strike out down to and including "Progress", in line 12, and on the same page, line 21, to strike out "$405,000" and insert "$200,000."

Mr. LEWIS. The bill has been amended in the House of Representatives from the form in which it was passed by the Senate. I desire, sir, to move that the Senate agree to the amendments of the House, being in the nature of a complete substitute, without asking for a conference and without seeking to have the measure returned to the House.

I wish the Senate to agree to the amendments of the House and adopt the bill, as amended, as it now stands.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois.

The motion was agreed to.

REGULATION OF SECURITIES EXCHANGES

The Senate resumed the consideration of the bill (S. 3420) to provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce and through the mails, to prevent inequitable and unfair practices on such exchanges and markets, and for other purposes.

Mr. AUSTIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	Hebert	Pittman
Ashurst	Costigan	Johnson	Pope
Austin	Couzens	Kean	Reynolds
Bachman	Cutting	Keyes	Robinson, Ark.
Bailey	Davis	King	Schall
Bankhead	Dill	La Follette	Sheppard
Barbour	Duffy	Lewis	Shipstead
Barkley	Erickson	Logan	Steiwer
Black	Fess	Lonergan	Stephens
Bone	Fletcher	McCarran	Thomas, Okla.
Borah	Frazier	McGill	Thomas, Utah
Brown	George	McKellar	Thompson
Bulkley	Gibson	McNary	Townsend
Bulow	Glass	Metcalf	Trammell
Byrd	Goldsborough	Murphy	Tydings
Byrnes	Gore	Neely	Vandenberg
Capper	Hale	Norbeck	Van Nuys
Caraway	Harrison	Norris	Wagner
Carey	Hastings	Nye	Walcott
Clark	Hatch	O'Mahoney	Walsh
Connally	Hatfield	Overton	Wheeler
Coolidge	Hayden	Patterson	

Mr. LEWIS. I wish to announce the absences announced on the previous roll call, to which I desire to add a note of the absence of my colleague [Mr. DIETERICH], who has been called away to the State of Illinois by official business.

The PRESIDING OFFICER. Eighty-seven Senators having answered to their names, a quorum is present. The question is on the amendment offered by the Senator from Delaware [Mr. HASTINGS].

Mr. HASTINGS obtained the floor.

Mr. LEWIS. Mr. President, will the Senator from Delaware yield to me?

Mr. HASTINGS. I yield.

Mr. LEWIS. May I interrupt the Senator from Kentucky [Mr. BARKLEY], having partly in charge the pending bill? I desire to call attention to the fact that in the State of Illinois, particularly in the city of Chicago, the school teachers have had a rather unfortunate experience in not being able to collect their pay. The city has issued tax warrants, and the teachers own these warrants in a very large sum. They anticipate further security. They desire to create a company or bring about an arrangement by which these certificates, though held by themselves, may be floated in such form as the local law will allow, perhaps to be sold in their own home, to be cashed where they may be. They are now concerned and report this morning the fear that they would have to get consent under the pending bill before they could place such warrants upon the market. I have advised to the contrary.

Without disturbing the bill by offering an amendment, I ask my able friend from Kentucky if he will give his judgment as to whether the bill would require the school teachers and their company first to appeal to the commission before they could float the warrants given them as compensation?

Mr. BARKLEY. Mr. President, in reply to the Senator I will say that it is inconceivable that any such warrants, or the stock of any company organized on that basis, would have to be listed on any stock exchange so as to bring them under the jurisdiction of the commission set up in this measure. There are provisions in the bill which exempt such local securities that are predominantly sold and bought intrastate from the operation of the bill; so it is hardly possible under any circumstances that an organization of that sort would have its certificates of stock, based upon an emergency created by the teaching situation in Chicago or elsewhere, brought within the jurisdiction of the bill.

Mr. LEWIS. And the able Senator does not feel that it is necessary to present an amendment to the bill to that effect?

Mr. BARKLEY. I do not.

Mr. LEWIS. I thank the Senator from Delaware for yielding to me.

Mr. HASTINGS. Mr. President, I inquire of the Senator from Kentucky whether it is not true that before a broker could deal in such warrants at all, and sell them to anybody in Indiana, for example, the provisions of this bill would have to be complied with?

Mr. BARKLEY. The bill specifically exempts local stocks that are dealt in predominantly intrastate. That is, it might be possible to sell a few shares across a State line without their being brought under the jurisdiction of the bill; but if they are in the main dealt in, even by a broker, wholly within a State, the bill itself exempts them; and the commission could exempt them even without such a provision.

Mr. HASTINGS. That is true because of the amendment adopted at the suggestion of the Senator from Michigan [Mr. VANDENBERG]?

Mr. BARKLEY. In part. There was another provision already in the bill at another place which did the same thing under slightly different circumstances; but the two provisions together, I think, amply take care of the situation.

Mr. HASTINGS. Mr. President, the amendment now before the Senate relates to section 12; and the amendment proposed is very largely the language used in the House bill. There are two or three exceptions to which I desire to call attention.

Section (K) is stricken out, which refers to—

Any further financial statements which the Commission may deem necessary or appropriate for the protection of investors.

I think that language is not in the House bill, and it is proposed to be stricken out by the amendment.

There are one or two other changes which are not of very great importance. The particular one which to me is of importance is to be found on page 28, paragraph (1) of subsection (b). That language by this amendment is proposed to be stricken out. I referred to it yesterday in discussing the bill. It provides that a security may be registered on a national securities exchange upon application by the issuer by filing with such exchange and with the commission—

(1) An agreement by the issuer—

And then, in parentheses, there is language which does not mean anything:

(which shall not be construed as a waiver of any constitutional right or any right to contest the validity of any rule or regulation) to comply with the provisions of this act and any amendments thereto and with the rules and regulations made or to be made thereunder, and not to lend any funds (except upon exempted securities) at the money post of any exchange or to any member thereof, or to any broker or dealer who transacts a business in securities through the medium of any such member, except in accordance with such rules and regulations as the commission may prescribe as necessary or appropriate in the public interest or for the protection of investors: *Provided*, That the provisions of this paragraph in regard to lending shall not apply to a member bank of the Federal Reserve System.

Mr. President, I call attention particularly to section 8, which makes these various acts illegal. It provides that it shall be illegal—

Directly or indirectly—

(a) To borrow in the ordinary course of business as a broker or dealer on any security (other than an exempted security) registered on a national securities exchange except (1) from or through a member bank—

And so forth.

The important thing—and I should like to know why it is important—from the point of view of those who drafted the bill, is to compel a person to agree not to do these various things.

After provision is made that the person shall enter into an agreement, it is provided—

Which shall not be construed as a waiver of any constitutional right of any right to contest the validity of any rule or regulation.

I do not quite understand why they want to get the issuer of the security on record, in the form of an agreement, not to violate a particular law, because it must be admitted that if the law itself is valid, and if the rules and regulations made by the commission are valid, and the person entering into the agreement has brought himself within the law by offering his securities for sale, then certainly, it seems to me, the point of compelling him to sign a paper that he will abide by the laws and rules made by the commission must have back of it something which those of us who have studied the bill do not quite understand.

I am not certain whether or not that is intended to apply particularly to over-the-counter markets. It will be observed that it is not every corporation that is to be affected by the bill, except that some broker or dealer may want to sell the securities of the corporation. I can conceive of a situation where a corporation would want nothing to do with the sale of its securities at all, would not be interested in whether they were sold or were not sold. The corporation may have received the money for the securities in the first place, they may be in the hands of the public, may not be on the stock exchange, and may never have been on the stock exchange. But some local dealer may have been dealing in those stocks, and he would like to continue to deal in them. He cannot do so legally unless the corporation complies with the law.

I do not quite understand whether this provision is intended to affect that sort of case, or just what its purpose is, and, not knowing why it is included, I have proposed my amendment, with the idea of having the language stricken out, pointing out at the same time that the provision can be of no legitimate service, so far as I can see, to the interpretation or the administration of the law.

Mr. FLETCHER. Mr. President, of course, this amendment would change the effect of the bill very materially if it should be agreed to, and we are opposed to it.

The Senator wants to know what was in the minds of those who prepared this provision. Let me call his attention to this situation. Under the National Banking Act of 1933, the Federal Reserve Board has the power to interfere with the extension of credit by the Federal Reserve banks for brokers' loans for speculation on stock exchanges. That reaches the banks, and is very important.

It will be remembered that at one time during the period from 1928 to 1929 there were $8,000,000,000 loaned by the banks to brokers in New York. The testimony before our committee showed that, in addition to that, the Standard Oil Co. was lending $69,000,000 a day, that the Electric Bond & Share Co. was lending $100,000,000 a day, that the Cities Service Co. was lending ninety-odd-million dollars, all that money coming from corporations over which the Federal Reserve Board and the Federal Reserve banks had no control, all that money coming out of commerce, industry, and agriculture and going into speculation on Wall Street by reason of high rates of interest being paid.

There must be some way whereby that sort of thing can be prevented from occurring again. It should not be permitted to occur, and this provision is aimed at that sort of situation, to furnish some sort of check on corporations which are taking money away from commerce, agriculture, and industry, and lending it out for speculation on Wall Street because they get a high rate of interest. There ought to be some sort of regulation, and that is the purpose of this provision.

Mr. HASTINGS. Mr. President, may I inquire of the Senator from Florida whether that is not covered by section 8 of the bill?

Mr. FLETCHER. I think not. It should be at this place in the bill, too.

Mr. BYRNES. Mr. President, I desire to call attention merely to the fact that the Senator's amendment would also strike from the bill subsection (K), upon which the Senate voted 2 days ago, and, by a vote of 3 to 1, retained in the bill.

It would also strike from the bill the provision as to the powers vested in the commission to secure information from security holders owning 10 percent or more of the stock of a corporation.

The section spoken of by the Senator from Delaware, making reference to an agreement, has a very definite purpose. It is, as the Senator from Florida has said, to prevent the lending of money by corporations at the money post of an exchange.

The House struck from the bill, passed by it, subsection 1, to which the Senator objects. The Senate, I hope, will insist on this provision. The matter will then be in conference. I believe the provision ought to be retained in the bill. Certainly the amendment of the Senator would strike from the bill several sections which, in the opinion of the committee that drafted the bill, are important.

Mr. GLASS. Mr. President, certainly the stock exchange could not object to this provision, because, facing the fact that the Banking Act of 1933 was to contain a similar provision—and it has in it a similar provision—the stock exchange itself adopted a regulation prohibiting the lending of money by corporations at the money posts.

Mr. HASTINGS. Mr. President, I desire to inquire of the Senator from South Carolina whether he can explain why there is a provision in the bill compelling the issuer of the security to enter into an agreement, instead of merely making it unlawful to do certain things.

Mr. BYRNES. Mr. President, the language as to the agreement was in the original draft of the bill. After the word "act", in line 14, there were words substantially as follows, "and, so far as possible, to require those in their employ to comply with the provisions of the act." Those words were eliminated from the bill by the subcommittee having it in charge. The language as to an agreement remains.

Of course, insofar as the law is concerned, and insofar as the rules or regulations are concerned, it is not material, because it does not matter whether the corporation agrees to obey the law or not; if the bill shall become law, they will have to obey it. But as to the remainder of the section, there is the provision to which I have referred, and to which the Senator from Florida has referred, that in the agreement there would be, among other things, a stipulation not to lend money at the money post of an exchange.

Mr. STEIWER. Mr. President, will the Senator from South Carolina yield for a question on that point?

Mr. BYRNES. I yield.

Mr. STEIWER. I am not sure that the Senator from South Carolina answered the question which was propounded by the Senator from Delaware. As I understood the question, the Senator from Delaware asked the purpose of exacting an agreement of the issuing corporation. I believe that at no time in the committee did I hear any particular statement, or any elaborate statement, at least, concerning the purpose of that provision.

I confess now that I do not know the underlying purpose which actuated the subcommittee in placing in section 12, paragraph (1), which requires the agreement of the issuing corporation.

Mr. BYRNES. The subcommittee removed or eliminated the language to which I have referred, which was in subsection (1).

Mr. STEIWER. Yes; I understand what the subcommittee did, but what I am trying to ascertain is, What was the subcommittee's purpose in doing what it did?

Mr. BYRNES. In eliminating that and leaving the present language?

Mr. STEIWER. Yes.

Mr. BYRNES. The language also referred to the provisions beginning on line 16, with regard to not lending any funds except upon exempted securities at the money post of any exchange, and so forth, and was left in because there would then be specific power in the commission to regulate that matter, as to which there would be some doubt if it were not left in the bill.

Mr. STEIWER. On my own account I have no particular objection to the latter part of the subdivision to which the

Senator from South Carolina has just referred. My objection has always gone to the earlier part of it.

Mr. President, I desire to take just a minute to tell the Senate again something of the nature of that objection.

In debating this bill at an earlier time I made the assertion that this agreement would impose upon the issuing corporations certain liabilities under which they would not otherwise be—liabilities both civil and criminal. I do not suppose that there is any chance that the Senate in its wisdom is going to eliminate this provision from the bill, but I think the RECORD ought to show why it is that at least one Senator is claiming that this section imposes new and unusual liabilities upon the issuing corporation.

The agreement probably is made for the benefit of investors. I am not as certain of that statement as I should like to be, but I think from the whole context and purpose of the bill, and by reason of the language contained even in this section, and possibly even in this subsection, that it is fairly apparent that this agreement is made for the benefit of investors.

I am told that in the State of New York, where most of these agreements will be made—and we know that in various States of the Union—a contract made for a consideration for the benefit of a third person is sustained at law this agreement is made between the issuing corporation and the commission and the exchange. In my opinion, it is made for the benefit of a third person, namely, the investor. Undoubtedly certain remedies inhere in this agreement in favor of that third person.

Permit me to call attention in this regard to section 27, which provides, among other things, as follows, in subsection (a):

> The rights and remedies provided by this act shall be in addition to any and all other rights and remedies that may exist at law or in equity.

To me it seems perfectly clear that we may conclude from the examination of these two sections and other sections of the bill that subsection (b) (1) of section 12 is intended to create liabilities upon the issuing corporation in favor of investors who in one way or another may come in contact with the securities of the issuer.

I should have no objection even to that if there were any way to define the full scope and extent of those liabilities. Because, however, the agreement is to abide by rules and regulations which exist at the time the registration statement is filed, and, in addition, to abide by rules and regulations which subsequently may be made by the commission, there is no way to estimate what the future exactions upon the issuing corporations may be; and if I am right in my theory that this language requires of the issuing corporation a new liability to third persons, and that liability is unknown and undefined, it will inevitably follow, as I contended here 2 or 3 days ago, that this provision in the bill will tend to retard recovery by restricting operations upon the exchanges and by inducing corporations not to make any attempt to issue their securities.

To the argument I made the other day I have as yet heard no answer which in my judgment is adequate. I have heard no one contend that he has examined this language carefully and that this agreement is not made for the benefit of third persons. I have heard no one deny that this amendment creates remote and unknown civil liabilities upon the issuing corporation.

The House has eliminated the language. The Senate might well eliminate it. I think it would not weaken the bill in any substantial respect if that were done.

The argument was made here the other day by certain Senators, including the Senator from Alabama [Mr. BLACK], that in any and every event the issuing corporation which seeks to register its securities would be compelled to abide by and comply with the rules and regulations. Of course, that is true. So far as criminal liabilities are concerned, I do not believe there is any difference whether we permit this section to remain or take it out; but so far as civil liabilities are concerned, there are such grave possibilities that it seems to me we should be well justified in eliminating the language.

I shall not detain the Senate, because I know how futile it is to reargue a question of this kind. I merely wanted the RECORD to show that one Senator endeavored to call to the attention of the Senate of the United States the disastrous consequence which is going to come from retaining that particular paragraph in the bill.

The PRESIDING OFFICER (Mr. LOGAN in the chair). The question is on the amendment offered by the Senator from Delaware [Mr. HASTINGS].

Mr. HASTINGS. On that I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. McNARY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Coolidge	Hayden	Overton
Ashurst	Copeland	Hebert	Patterson
Austin	Couzens	Johnson	Pittman
Bachman	Davis	Kean	Pope
Bankhead	Dill	Keyes	Reynolds
Barbour	Duffy	King	Robinson, Ark.
Barkley	Erickson	La Follette	Schall
Black	Fess	Lewis	Sheppard
Bone	Fletcher	Logan	Shipstead
Borah	Frazier	Lonergan	Steiwer
Brown	George	McCarran	Thomas, Okla.
Bulkley	Gibson	McGill	Thompson
Bulow	Glass	McKellar	Townsend
Byrd	Goldsborough	McNary	Trammell
Byrnes	Gore	Metcalf	Tydings
Capper	Hale	Murphy	Vandenberg
Caraway	Harrison	Neely	Van Nuys
Carey	Hastings	Norris	Wagner
Clark	Hatch	Nye	Walcott
Connally	Hatfield	O'Mahoney	Wheeler

The PRESIDING OFFICER. Eighty Senators have answered to their names. A quorum is present.

The question is on the amendment of the Senator from Delaware.

Mr. HASTINGS. I again ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been demanded. Is the demand seconded? Evidently there is not a sufficient number.

Mr. McNARY. I ask for a recount on the demand for the yeas and nays.

The PRESIDING OFFICER. A sufficient number have now seconded the demand, and the yeas and nays are ordered.

The legislative clerk proceeded to call the roll.

Mr. BARKLEY (when his name was called). I have a general pair with the Senator from Iowa [Mr. DICKINSON], which I transfer to the junior Senator from Illinois [Mr. DIETERICH], and will vote. I vote "nay."

Mr. WALCOTT (when his name was called). I have a general pair with the junior Senator from California [Mr. McADOO], who is detained by illness. I therefore refrain from voting, as I do not know how he would vote. If I were at liberty to vote, I should vote "yea."

The roll call was concluded.

Mr. LEWIS. I again announce the absence of Senators mentioned by me on a previous roll call, for the reasons then assigned, and add that my colleague the junior Senator from Illinois [Mr. DIETERICH], if present, would vote "nay."

I desire also to announce the general pair of the Senator from Georgia [Mr. RUSSELL] and the Senator from Maine [Mr. WHITE], and the general pair of the Senator from South Carolina [Mr. SMITH] with the Senator from New Mexico [Mr. CUTTING].

I desire further to announce that the Senator from North Carolina [Mr. BAILEY], the Senator from Mississippi [Mr. STEPHENS], the Senator from Utah [Mr. THOMAS], and the Senator from Massachusetts [Mr. WALSH] are detained from the Senate by official business, and that the Senator from Colorado [Mr. COSTIGAN] is unavoidably detained.

Mr. ROBINSON of Arkansas (after having voted in the negative). I transfer my general pair with the Senator from Pennsylvania [Mr. REED] to the Senator from North Carolina [Mr. BAILEY], and allow my vote to stand.

Mr. HEBERT. I desire to announce that the Senator from New Jersey [Mr. KEAN] is paired with the Senator from Louisiana [Mr. LONG]. If the Senator from New Jersey were present and permitted to vote, he would vote "yea", and the Senator from Louisiana would vote "nay." I desire further to announce that the Senator from Indiana [Mr. ROBINSON] is paired with the Senator from Mississippi [Mr. STEPHENS]. I am not advised as to how the Senator from Indiana would vote if present.

The result was announced—yeas 23, nays 55, as follows:

YEAS—23

Austin	Gibson	Hebert	Schall
Barbour	Goldsborough	Keyes	Steiwer
Carey	Gore	McNary	Townsend
Copeland	Hale	Metcalf	Vandenberg
Davis	Hastings	Patterson	Wagner
Fess	Hatfield	Reynolds	

NAYS—55

Adams	Caraway	Hayden	O'Mahoney
Ashurst	Clark	Johnson	Overton
Bachman	Connally	King	Pittman
Bankhead	Coolidge	La Follette	Pope
Barkley	Couzens	Lewis	Robinson, Ark.
Black	Dill	Logan	Sheppard
Bone	Duffy	Lonergan	Shipstead
Borah	Erickson	McCarran	Thomas, Okla.
Brown	Fletcher	McGill	Thompson
Bulkley	Frazier	McKellar	Trammell
Bulow	George	Murphy	Tydings
Byrd	Glass	Neely	Van Nuys
Byrnes	Harrison	Norris	Wheeler
Capper	Hatch	Nye	

NOT VOTING—18

Bailey	Kean	Robinson, Ind.	Walcott
Costigan	Long	Russell	Walsh
Cutting	McAdoo	Smith	White
Dickinson	Norbeck	Stephens	
Dieterich	Reed	Thomas, Utah	

So the amendment of Mr. HASTINGS was rejected.

CLAIMS OF TURTLE MOUNTAIN BAND OR BANDS OF CHIPPEWA INDIANS—VETO MESSAGE (S.DOC. NO. 179)

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, which was read, and ordered to be printed, as follows:

To the Senate:

I return herewith, without my approval, S. 326, referring the claims of the Turtle Mountain Band or Bands of Chippewa Indians of North Dakota to the Court of Claims for adjudication and settlement.

The principal claims of these Indians were settled by a treaty ratified by the Indians and by the act of Congress of April 21, 1904, whereby $1,000,000 was appropriated for the benefit of the Indians, and under which they executed a release of all claims whatsoever held by them against the United States.

If such releases and settlements are ignored or deprived of their legal effect in this instance, an undesirable precedent would be created for applications for similar relief for other Indian tribes. This would require the Court of Claims and Supreme Court to pass upon questions of governmental policy in dealing with the Indians, and upon the propriety or impropriety of the Government's action in specific cases. These are questions of a political nature which, heretofore, Congress has consistently refused to remit to the courts for review. Further, it seems to me very questionable whether the courts can be asked or required to adjudicate the rights of the Indians and the United States and, at the same time, to exercise the powers of an arbitrator.

Section 4 of the bill opens the doors of the court to the institution of suits for individual losses or claims, something which the Congress has heretofore sedulously refused to do. This section also empowers the court to entertain questions with reference to agreements and treaties which the courts have uniformly held are strictly political and not within the province of a court. Recognition of Indian title is a purely political matter and can be accorded solely by the sovereign. Section 4 of this act might fasten upon the United States liability for the payment of the value of land which they had never recognized as belonging to these particular Indians solely because some official of the United States, minor or otherwise, had "recognized" title and occupancy by long possession as being in these particular Indians.

For the foregoing reasons, I consider the bill contrary to the best interests of the United States.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *May 10, 1934.*

Mr. FRAZIER. I move that the message of the President of the United States, with the accompanying bill, be referred to the Committee on Indian Affairs.

The motion was agreed to.

THE AIR MAIL

Mr. McKELLAR. Mr. President, I ask unanimous consent that the Chair may lay before the Senate at this time the amendments of the House to the so-called "air mail bill."

There being no objection, the Presiding Officer laid before the Senate the amendments of the House of Representatives to the bill (S. 3170) to revise air-mail laws, which were to strike out all after the enacting clause and insert:

That this act may be cited as the "Air Mail Act of 1934."

SEC. 2. (a) Effective July 1, 1934, the rate of postage on air mail shall be 5 cents for each ounce or fraction thereof.

(b) When used in this act—

(1) The term "air mail" means mail of any class prepaid at the rate of postage prescribed in subsection (a) of this section.

(2) The term "person" includes an individual, partnership, association, or corporation.

(3) The term "pilot" includes copilot.

SEC. 3. (a) The Postmaster General is authorized to award contracts for the transportation of air mail by airplane between such points as he may designate, and for periods of not exceeding 1 year, to the lowest responsible bidders tendering sufficient guaranty for faithful performance in accordance with the term of the advertisement at fixed rates per airplane-mile. The base rate of pay which may be bid and accepted in awarding such contracts shall in no case exceed 35 cents per airplane-mile for transporting a mail load not exceeding 300 pounds. Payment for transportation shall be at the base rate fixed in the contract for the first 300 pounds of mail or fraction thereof, plus one tenth of such base rate for each additional 100 pounds of mail or fraction thereof, computed at the end of each calendar month on the basis of the average mail load carried per mile over the route during such month.

(b) In case of a determination by the Postmaster General that any bidder is not responsible or is otherwise disqualified under the terms of this act, such determination shall be subject to review in any manner authorized by law.

(c) The Postmaster General shall not award contracts for air-mail routes in excess of an aggregate of 29,000 miles, and shall not establish schedules for air-mail transportation on such routes in excess of an annual aggregate of 40,000,000 airplane-miles.

Authority is hereby conferred upon the Postmaster General to provide and pay for the carriage of mail by air in conformity with the terms of any contract therefor issued prior to the passage of this act, and to extend any such contract for an additional period not exceeding 9 months, at a rate of compensation not exceeding that provided for in the original contract: *Provided*, That the contractor shall consent in writing to the extension and shall likewise agree to comply with all provisions of this act during the extended period of the contract.

SEC. 4. The Postmaster General shall cause an advertisement of each air-mail route to be conspicuously posted at each post office that is a terminus of the route named in such advertisement, for at least 15 days, and a notice thereof shall be published at least once in some daily newspaper of general circulation published in the cities that are the termini for the route, before the time of the opening of bids.

SEC. 5. Any person having a claim against the United States arising out of the annulment of an air-mail contract heretofore held by it, may prosecute such claim in the Court of Claims of the United States, if suit therefor is brought within 1 year after such annulment. No person shall be ineligible to bid and contract for carrying air mail under this act by reason of the provisions of section 3950 of the Revised Statutes (act of June 8, 1872; U.S.C., title 39, sec. 432), nor by reason of any restriction imposed in prior legislation in respect to air-mail contracts.

SEC. 6. All persons holding air-mail contracts shall keep their books, records, and accounts under such regulations as may be prescribed by the Postmaster General, and he is hereby authorized to examine and audit the books, records, and accounts of such contractors and to require a full financial report under such regulations as he may prescribe.

SEC. 7. Before the establishment of any air-mail route the Postmaster General shall notify the Secretary of Commerce, who thereupon shall certify to the Postmaster General the character of equipment to be employed and maintained on such route. The Secretary of Commerce in certifying his specifications to the Postmaster General shall only determine the speed, load capacity, and safety features and safety devices of airplanes to be used on

the route, which said specifications shall be included in the advertisement for bids.

SEC. 8. The Secretary of Commerce is authorized and directed to prescribe the maximum flying hours of pilots on air-mail lines and safe operation methods on such lines. The Secretary of Commerce is authorized to prescribe all necessary regulations to carry out the provisions of this section and section 7 of this act.

SEC. 9. It shall be a condition upon the awarding and holding of any air-mail contract that the rate of compensation for all pilots, mechanics, and laborers employed by the holder of such contract shall be not less than the rate of compensation paid by air-mail-line operators during 1933, as modified by decisions of the National Labor Board. This section shall not be construed as restricting the right of collective bargaining on the part of any such employees.

SEC. 10. The Federal Radio Commission shall give equal facilities in the allocation of radio frequencies in the aeronautical band to airplanes carrying mail and/or passengers over regular scheduled routes.

SEC. 11. No contract awarded under this act or any interest in any such contract shall be sold, assigned, or transferred by the person to whom such contract is awarded, to any other person, except with the approval of the Postmaster General.

SEC. 12. The Postmaster General may cause any contract awarded under this act to be canceled for disregard of or failure by the contractor to comply with the terms of its contract or with the provisions of this act or for any conspiracy or acts designed to defraud the United States with respect to any such contract. This provision is cumulative to other remedies now provided by law.

SEC. 13. Whoever shall enter into any combination, understanding, agreement, or arrangement to prevent the making of any bid for any contract under this act, to induce any other person not to bid for any such contract, or to deprive the United States Government in any way of the benefit of full and free competition in the awarding of any such contract, shall, upon conviction thereof be fined not more than $10,000 or imprisoned for not more than 5 years, or both.

SEC. 14. If any person shall willfully or knowingly violate any provision of this act, his contract, if one shall have been awarded to him, shall be forfeited, and such person shall upon conviction be fined not more than $10,000 or imprisoned for not more than 5 years, or both.

SEC. 15. The Postmaster General may make such rules, regulations, and orders as may be necessary to carry out the provisions of this act.

SEC. 16. All acts or parts of acts inconsistent or in conflict with any provisions of this act are hereby repealed to the extent of such inconsistency or conflict.

SEC. 17. The President is hereby authorized to appoint a commission composed of 5 members to be appointed by him, not more than 3 members to be appointed from any one political party, for the purpose of making an immediate study and survey, and to report to Congress not later than February 1, 1935, its recommendations of a broad policy covering all phases of aviation and the relation of the United States thereto. Members appointed who are not already in the service of the United States shall receive compensation of not exceeding the rate of compensation of a Senator or Representative.

SEC. 18. Such commission shall organize by electing one of its members as chairman, and it shall appoint a secretary whose salary shall not exceed $5,000 per annum. Said commission shall have the power to pay actual expenses of members of the commission in the performance of their duties, to employ counsel, experts, and clerks, to subpena witnesses, to require the production by witnesses of papers and documents pertaining to such matters as are within the jurisdiction of the commission, to administer oaths, and to take testimony, and for such purpose there is hereby authorized to be appropriated the sum of $75,000.

Amend the title so as to read: "An act to authorize the Postmaster General to award 1-year contracts for carrying air mail, to establish a commission to report a national aviation policy, and for other purposes."

Mr. McKELLAR. I move that the Senate disagree to the amendments of the House of Representatives, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

Mr. McNARY. Mr. President, I desire to ask the nature of the House amendments. We certainly are entitled to some explanation of what is proposed in the way of legislation.

Mr. McKELLAR. The text of the Senate bill was stricken out by the House and the text of the House bill substituted therefor. Quite a number of changes are involved, so, under the circumstances, there is nothing for us to do but to ask for a conference.

Mr. McNARY. What are the changes?

The PRESIDING OFFICER. The Chair may state to the Senator from Oregon that, as the Chair understands, the motion is that the Senate disagree to the amendments of the House and that conferees be appointed.

Mr. McNARY. That is true; and upon that question I desire to be recognized in order that I may propound to the Senator from Tennessee some inquiries.

Mr. McKELLAR. I shall be glad to explain to the Senator what the changes are.

If my motion shall be agreed to, it will virtually put the entire bill in conference. One of the principal sections of the Senate bill is section 7, in which those ineligible for contracts are set forth, and prohibitions are made against affiliates, holding companies, subsidiaries, and manufacturing companies. That provision is not contained in the House bill. Also, the House bill omits the provision with reference to the Interstate Commerce Commission. The matter of ratemaking is not referred to the Commission.

Those are the two most important amendments. There is a difference in the rate to be charged as fixed by the House and as fixed by the Senate; and there are a number of other minor changes.

I think perhaps I have stated sufficient to show the Senator that it is necessary to have a conference.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee that the Senate disagree to the amendments of the House, ask for a conference, and that conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. McKELLAR, Mr. BLACK, Mr. HAYDEN, Mr. SCHALL, and Mr. FRAZIER conferees on the part of the Senate.

REGULATION OF SECURITIES EXCHANGES

The Senate resumed the consideration of the bill (S. 3420) to provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce and through the mails, to prevent inequitable and unfair practices on such exchanges and markets, and for other purposes.

Mr. COPELAND. Mr. President, I send forward an amendment and ask that it may be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. In section 8, page 19, line 1, it is proposed to strike out the word "To" and insert "In contravention of such rules and regulations as the commission shall prescribe for the protection of investors, to."

Mr. FLETCHER. Mr. President, I see no objection to that amendment.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New York.

The amendment was agreed to.

Mr. HASTINGS. Mr. President, I send to the desk an amendment and ask that it may be read.

The PRESIDING OFFICER. The amendment offered by the Senator from Delaware will be stated.

The LEGISLATIVE CLERK. On page 33, after line 8, it is proposed to strike out all down to and including the word "issuer", on page 35, line 5, being section 13, and in lieu thereof to insert the following:

SEC. 13. (a) Every issuer of a security registered on a national securities exchange shall file the information, documents, and reports below specified with the exchange (and shall file with the commission such duplicate originals thereof as the commission may require), in accordance with such rules and regulations as the commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security—

(1) Such information and documents as the commission may require to keep reasonably current the information and documents filed pursuant to section 11.

(2) Such annual reports, certified if required by the rules and regulations of the commission by independent public accountants, and such quarterly reports as the commission may prescribe.

(b) The commission may prescribe, in regard to reports made pursuant to this act, in accordance with accepted principles of accounting, the form or forms in which the required information shall be set forth, and the items or details to be shown in the balance sheets and profit-and-loss statements; but in the case of the reports of any person whose accounting is subject to the provisions of any law of the United States or any State, or any rule or regulation thereunder, the rules and regulations of the commission with respect to reports shall not be inconsistent with the requirements imposed by such law or rule or regulation, except that this provision shall not be construed to prevent the com-

mission from imposing such additional requirements with respect to such reports, within the scope of this section and section 11, as it may deem necessary for the protection of investors; provided that no additional requirements shall be imposed upon the carriers subject to the provisions of section 20A of the Interstate Commerce Act as amended.

(c) If in the judgment of the commission any report required under subsection (a) is inapplicable to any specified class or classes of issuers, the commission shall require in lieu thereof the submission of such reports of comparable character as it may deem applicable to such class or classes of issuers.

Mr. HASTINGS. Mr. President, this amendment is to section 13, and, as I think, is the exact language of the House bill; at any rate, the changes made are to be found on page 33 of the bill in the last three lines.

This question was discussed by the Senator from Oregon [Mr. STEIWER] the other day in particular. The amendment affects the last paragraph on that page, which now reads:

(2) Such annual reports as the commission may prescribe, certified if required by the rules and regulations of the commission by independent public accountants; such quarterly reports as the commission may prescribe; and such other reports as the commission may deem essential in special circumstances.

The amendment proposes to strike from that provision the words "and such other reports as the commission may deem essential in special circumstances."

The next section is changed to read as follows:

(b) The commission may prescribe, in regard to reports made pursuant to this act—

Then these words are inserted:

In accordance with accepted principles of accounting.

So the sentence reads:

The commission may prescribe, in regard to reports made pursuant to this act, in accordange with accepted principles of accounting, the form or forms in which the required information shall be set forth, the items or details to be shown in the balance sheet and the earning statement.

Under the amendment the following language is proposed to be stricken out:

And the methods to be followed in the preparation of reports, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the preparation, where the commission deems it necessary or desirable, of separate and/or consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer.

By the amendment that language is proposed to be stricken out as being too much of a burden to be placed upon corporations which may desire to list their securities upon a stock exchange or in any other way as effected by the bill.

I do not propose to take the time of the Senate in further discussion of the matter. I covered it yesterday in my address to the Senate, and my only object in addressing the Senate but a moment is for the purpose of expedition.

Mr. President, I may say before the Senate passes upon the amendment that I have several other amendments upon which I expect to ask the Senate to pass. I have conferred with the chairman of the committee with respect to some of them. I have been advised by him and by other members of the committee that they have examined all the amendments and, with possibly one exception, the committee is not prepared to accept any of them. I think we have gone far enough with the bill and with the record votes on amendments to demonstrate to the Senate as well as to the country that it is impossible to have a majority of the Senate agree to any amendment contrary to the wishes of the chairman of the committee and those working with him. In view of that fact, I am not going to insist upon a record vote on the particular amendment now pending, and perhaps on none of the others, with one exception.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk another amendment, which I offer.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 3, line 24, after the word "firm", to insert "but does not include a bank."

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware.

Mr. FLETCHER. Mr. President, the amendment would enable the bank to become a member of an exchange without subjecting itself to the provisions of the bill. Banks would be put in a special class of membership under the amendment. There are banks in the country now which are members of exchanges, and others would be formed for that purpose, and yet they would not be under any restriction or restraint at all under the provisions of the bill, because they would be excepted under the definition of members.

I think the idea is thoroughly wrong.

Mr. HASTINGS. Mr. President, I am frank to say that I do not know much about this proposal. I have introduced it by request. I should like to make the explanation which was made to me with respect to it.

There are many banks which are members of stock exchanges, and as such are entitled to participate in the commissions charged on security transactions originated by them. This type of memberships exists in several different western stock exchanges. Unless the section is amended these banks will be deprived of a profitable source of revenue. The bill already recognizes that banks should be exempted from the definition of "broker" and "dealer", because the provisions of the bill applicable to brokers and dealers would impose an impossible burden on banks. The same would be true of those banks which would be considered members of stock exchanges under the sweeping definition contained in the subparagraph.

That is the only explanation I have with respect to it, and I am satisfied to have the Senate act upon the amendment.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware. [Putting the question.] The "ayes" seem to have it.

Mr. BARKLEY. I ask for a division.

On a division, the amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk another amendment which I offer.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed, on page 9, line 23, after the word "regulations", to strike out all down to and including the word "act", on page 10, line 4, and to insert in lieu thereof the following:

And to enter such orders as may be necessary for the execution of the functions vested in it by this act. Whenever the commission deems it necessary in the public interest or for the protection of investors, the commission shall have power to determine that the violation of any rule or regulation made by it, the violation of which is made unlawful by the terms of this act, shall be subject to the penalties provided in section 30 of this act: *Provided, however,* That such rule or regulation shall be published in such manner as the commission shall deem appropriate to give notice to the persons affected thereby at least 20 days before the effective date thereof. Any rule or regulation, a violation of which is subject to the penalties provided in section 30 of this act, shall be deemed to be an order of the commission and any person aggrieved thereby may obtain a review thereof as provided in section 24 of this act.

Mr. HASTINGS. Mr. President, the commission should have power not only to adopt rules and regulations, but also to enter orders making its rules and regulations effective.

The purpose of this amendment is to make it possible for the commission to adopt rules and regulations which would not always be subject to the heavy penalties imposed by the bill.

In view of the broad powers given to the commission to adopt rules and regulations affecting different types of transactions, a certain degree of flexibility ought to exist with regard to the penalties which attach to the violation of such rules and regulations.

Under section 30 of the bill, criminal penalties are imposed for violation of rules and regulations. It is conceivable that the commission might wish to adopt many rules and regulations of a minor character, the violation of which should not be made a criminal offense. The amendment would not in any way diminish the power of the commission, but would allow the commission to specify which of its rules and regulations required a criminal penalty to aid in their enforcement.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 18, line 9, after the word "exchange", it is proposed to strike out all down to and including the word "needs" in line 15, and to insert:

In contravention of such rules and regulations as the Federal Reserve Board may prescribe: *Provided, however,* That this subsection shall not apply to loans made by or through a member bank of the Federal Reserve System.

Mr. HASTINGS. Mr. President, I desire to make an explanation of this amendment.

The purpose of the amendment is to make this subsection of the bill conform to the principle adopted by the committee of not prohibiting practices which are to be regulated by the Federal Reserve Board except when they are in contravention of rules and regulations adopted by the Board.

The practical advantages of this change are substantial. Unless it shall be made, all nonmember banks will be deprived of the right to make loans to members of exchanges, brokers, and dealers until the Federal Reserve Board shall have promulgated rules and regulations. The time available for the formulation of such rules and regulations before the act is to become effective is not very great; and it would, therefore, seem wiser to permit the customary practices to continue until the Reserve Board shall have adopted rules and regulations to govern them.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 18, it is proposed to strike out lines 16 to 25, inclusive, in the following words:

(b) To permit in the ordinary course of business as a broker his aggregate indebtedness to all other persons, including customers' credit balances (but excluding indebtedness secured by exempted securities), to exceed such percentage of the net capital (exclusive of fixed assets and value of exchange membership) employed in the business, but not exceeding in any case 2,000 percent, as the commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors.

Mr. HASTINGS. Mr. President, this subsection is apparently intended to insure the solvency of brokers by requiring them to maintain a minimum ratio between their capital and their aggregate indebtedness. In theory, such a formula may seem useful; but in practice it would not accomplish its purpose. The ratio between net capital and total indebtedness does not indicate the solvency of a brokerage house, because a large part, and sometimes the most important part, of a broker's assets or liabilities are open contracts which cannot be truly reflected on a balance sheet. The proper formula for the regulation of the minimum capital which should be maintained by brokers would be too long to be included in a statute. It belongs properly in the rules and regulations which the commission can require exchanges to adopt under section 19 of the bill.

Another persuasive reason for eliminating this provision is that it would require every person lending money to a broker to investigate the broker's books so as to make sure that the broker's capital met the minimum statutory requirements. Otherwise, a loan made to a broker whose capital was insufficient might be considered invalid.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk another amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 19, line 2, before the word "customer", it is proposed to insert "without his written consent", and on page 19, line 4, to strike out "without his written consent."

Mr. HASTINGS. Mr. President, this subsection is intended to protect the customers by making it illegal for brokers to commingle customers' securities in connection with a hypothecation or pledge by a broker. It also is intended to prevent a broker pledging customers' securities for more than the amount due to him by his customers.

In the subdivision marked "(1)" it is recognized that these prohibitions should not apply if a customer consents in writing. By moving the phrase "without his written consent" from line 4 to line 2, the waiver of the prohibitions by a customer is made effective to all three of the subdivisions instead of being confined to the first subdivision, as at present. No reason is apparent why this consent provision should not apply to the second and third subdivisions as well as to the first.

Unless some such change is made the practical results may be absurd. For instance, a broker could not use his own securities as additional collateral in a loan in which any of his customers' securities were pledged. Banks frequently call for additional collateral which must be supplied within a few hours. It is, naturally, impossible for a broker to call upon his customers to furnish him with extra margin within any such brief period of time. Unless the broker can use his own securities to meet such a demand, the bank might sell out the loan, to the great injury of the broker's customers.

Unless this section is amended so as to eliminate its impractical features the liquidation of a substantial amount of brokers' loans may be become imperative upon the effective date of the act.

The apparent purpose of these provisions is to prevent a broker financing his own speculations through the use of his customers' securities. The prohibition against the hypothecation of customers' securities will not, however, accomplish this purpose, because a broker's speculations might be financed through the use of customers' credit balances or other assets. The proper method of accomplishing this legitimate purpose is by having the commission require each national securities exchange to adopt rules and regulations governing the conduct of customers' accounts. The commission has power to require the adoption of such rules and regulations under section 19 of the bill.

May I urge the chairman of the committee to let this amendment be adopted, so that at least it may go to conference, because it does seem to me that it might be of the greatest importance?

Mr. FLETCHER. Mr. President, I am unable to agree with the Senator. I think this is a dangerous amendment. I am opposed to it.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk another amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 26, it is proposed to strike out lines 5 to 8, as follows:

It shall also be unlawful for a specialist acting as a broker to effect on the exchange any transaction except upon a market or limited-price order.

Mr. HASTINGS. Mr. President, the Commission is given broad power to determine rules or regulations under which specialists may act as brokers. It seems unnecessary, therefore, to have a statutory prohibition preventing them from accepting orders unless they are market orders or limited orders.

The effect of the present provision would be to make the execution of discretionary orders and stop-loss orders by a specialist illegal. It is far from certain whether the elimination of stop-loss orders may not be harmful rather than helpful to the investing public. Certain types of discretionary orders should probably be forbidden, but even market orders require the exercise of a certain degree of discretion if the public is to be protected. In view of the complexity of the problem, a statutory prohibition is certainly inadvisable, and this whole subject matter ought to be left to rules and regulations to be adopted by the commission.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. I send to the desk another amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 31, line 3, it is proposed to strike out all down to and including the word "holders" on page 32, line 2, and to insert:

(d) If the exchange shall certify to the commission that the security has been approved for listing, the registration shall become effective upon the filing with the commission of such certification. The commission may, however, suspend dealing in such security or, after appropriate notice and opportunity for hearing, enter an order revoking the registration thereof if it shall determine that such security is not suitable for registration, or that the issuer has failed to comply with the registration requirements of this act. Securities representing an interest in registered securities or growing out of registered securities may be listed by an exchange or admitted to dealing in advance of registration upon request in writing from the issuer accompanied by assurance that a listing application in form required by the exchange will be made within a reasonable time.

Mr. HASTINGS. Mr. President, the effect of this amendment will be to eliminate the 30-day waiting period which is now provided by the provision on page 31, line 6. This delay will be a serious burden on the marketing of securities and will retard the flow of capital into industry. There seems no necessity for such a waiting period when the commission has full power to suspend or strike any security from dealing on an exchange. The suggested provision would allow the registration of unissued securities when they represent an interest in securities that have already been registered or grow out of registered securities. The present provision in regard to unissued securities is altogether too narrow and would prevent the holders of registered securities from having a market on stock exchanges for new securities which grow out of their existing holdings.

The PRESIDING OFFICER (Mr. DUFFY in the chair). The question is on agreeing to the amendment proposed by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk an important amendment, which I propose.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 32, line 3, it is proposed to strike out all down to and including the word "section" in line 10, and to insert:

(e) Notwithstanding the foregoing provisions of this section, all securities listed on a national securities exchange at the time the registration of such exchange as a national securities exchange becomes effective shall be considered securities "registered on a national securities exchange" within the meaning of all the sections of this act, and all securities admitted to dealing on such national securities exchange prior to April 1, 1934, shall be considered securities "registered on a national securities exchange" within the meaning of all the sections of this act, other than sections 12 and 13. The commission may, however, require any national securities exchange to suspend dealing in any such security or securities or may, after appropriate notice and opportunity for hearing, enter an order requiring any national securities exchange to remove the same from the list of securities listed or admitted to dealing thereon whenever it shall determine that such action is necessary or appropriate for the protection of investors.

Mr. HASTINGS. Mr. President, I think this is the section which the chairman of the committee modified by an amendment earlier in the day, but his amendment did not cover as much as does the amendment I have just proposed.

This change would allow securities which were dealt in on stock exchanges on April 1, 1934, to remain on exchanges until the commission should require dealings in them to be suspended or the securities to be stricken from registration. Unless some such provision is made, many billion dollars' worth of securities will automatically cease to be listed on exchanges not later than July 1, 1935.

There are many issues of securities where the issuer has technically dissolved or ceased to exist. Such securities could not comply with the registration statement of the act, and would, therefore, be forced off stock exchanges to the great disadvantage of the persons holding such securities. Foreign securities would likewise be forced off stock exchanges, as it seems almost certain that few, if any, foreign governments or corporations will comply with the registration requirements of the act. There are several billion dollars' worth of securities of this kind which are customarily dealt in on American exchanges.

The number of security issues dealt in on American exchanges approximates 8,000 to 10,000. It would be physically impossible for the commission to receive and examine registration statements covering such a large number of security issues in less than the 14 months remaining before July 1, 1935, which is the date fixed by the act for the elimination from stock exchanges of all securities which have not filed a registration statement. In his testimony before the House committee, Commissioner Landis stated, that the securities division of the Federal Trade Commission had examined less than 1,000 registration statements in the 9 months which have elapsed since the Securities Act of 1933 became effective. He likewise testified that the securities division, although it had a large staff, was tremendously overworked. It seems certain, therefore, that the commission could not in approximately a year's time examine 8,000 to 10,000 registration statements.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk another amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 33, after line 7, it is proposed to add a new subsection, as follows:

(g) Any national securities exchange may, and upon order of the commission shall, suspend dealing in or, upon appropriate notice and opportunity for hearing, remove from the list of securities dealt in thereon any registered security or any security admitted to dealing thereon.

Mr. HASTINGS. Mr. President, the purpose of this amendment, in adding this new section, is to make clear that stock exchanges have the right to suspend dealings in securities or strike them from the list without awaiting action by the commission. The delay which might be involved if the commission had to approve every suspension or striking from the list before it became effective might cause great damage to investors and would deprive stock exchanges of a necessary emergency power.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk another amendment to the pending bill.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 43, line 3, after the word "requested", it is proposed to strike out all down to and including the word "matters", on page 44, line 3, and to

insert the words "by order to alter or supplement the rules of such exchange insofar as it may be necessary or appropriate for the protection of investors or to insure fair dealings in securities traded in upon such exchange."

Mr. HASTINGS. Mr. President, the purposes of the bill have consistently been stated to be the prevention of the use of excessive credit for speculation and the prevention of unfair practices on stock exchanges. Throughout the bill powers have been given to the commission to take such action as is necessary or appropriate for the protection of investors or to insure fair dealings. There can be no objection to giving the commission power to require exchanges to alter and amend their rules so as to carry out these purposes. The bill as drawn, however, goes much further, and in this section proposes to allow the commission to regulate the internal operations of exchanges in many matters which do not bear, either directly or even remotely, upon the control of credit or unfair practices in the purchase and sale of securities. For instance, "hours of trading"—page 43, line 16—"the time and method of making settlements, payments, and deliveries, and of closing accounts"—page 43, lines 18–19—the "fixing of reasonable rates of commission, interest, and other charges"—page 43, line 25—the "minimum units of trading"—page 44, line 1—"and similar matters"—page 44, line 3—involve details of operation.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware.

Mr. COPELAND. Mr. President, a few moments ago I tried to have a change made on lines 9 and 10 of page 43. I think that is where the Senator's amendment applies.

Mr. HASTINGS. That is correct.

Mr. COPELAND. It would seem to me also that in line 19, where reference is made to closing accounts, we have gone too far. It certainly should be the prerogative of every person conducting a brokerage business to close out accounts of customers when he feels that such accounts will endanger his own credit. It is unjust to place this right elsewhere than in the person conducting the business, as his own credit may be put in jeopardy if he is restricted as to closing out credits extended by him to others. Just as the banks are necessarily left free to close out credits extended to the brokers, so the brokers should be left free to close out credits extended by them to their customers. The two relations are mutually dependent upon each other.

Then when it comes, as the Senator has already said, to the fixing of reasonable rates of commission, interest, and other charges, I think we should bear in mind that the brokerage business is not a public utility. It is not desired to increase the facilities for public speculation through the reduction of rates. It is rather the purpose of the bill to reduce speculation. The commission should not, however, be empowered, through the right to impose heavier brokerage charges and commissions, to restrict speculation to a greater extent than contemplated by the bill.

I find myself, therefore, in sympathy with what the Senator from Delaware is proposing.

Mr. HASTINGS. Mr. President, I may say to the distinguished Senator from New York that the explanation of the objection made to our proposal shows very clearly that there is a determination here to turn over the stock exchange and its whole operation to a commission of the Federal Government. That being the purpose, the objections which the Senator from New York has made and which I have made, of course, cannot be very seriously considered by the proponents of this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 46, line 1, after the word "under", it is proposed to strike out "or in securing information to serve as a basis for recommending further legislation concerning the matters to which this act relates."

Mr. HASTINGS. Mr. President, of course this is entirely a new kind of legislation before the Congress. It undertakes to give to a commission the right to do that which the Committee on Banking and Currency has been doing for a year and a half. It is a transfer of the power from the Congress to what will be a newly created commission. It is a new idea and a new theory of government. However, I have talked myself hoarse on this subject, and I do not care to make a speech about it.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 49, line 3, after the word "commission", it is proposed to strike out "in a proceeding under this act to which such person is a party."

Mr. HASTINGS. A similar amendment was adopted by the House of Representatives. The purpose of the change was to allow persons who were aggrieved, but who may not have technically been parties in the proceeding in which the order was entered, the right of a court review.

I am wondering whether the chairman of the committee has carefully considered the amendment and whether there is any objection to it. It is on page 49, lines 3 and 4. I propose to strike out from lines 3 and 4 the words "in a proceeding under this act to which such person is a party." That would make the language read:

Any person aggrieved by an order issued by the commission may obtain a review of such order in the Circuit Court of Appeals of the United States.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. HASTINGS. I yield.

Mr. COPELAND. I desire to add to what the Senator has said that a member of the exchange might be seriously aggrieved by an order of the commission directed to the exchange, but such member would have no right of appeal from such order unless the proposed amendment should be agreed to. The exchange itself might not be aggrieved, and, therefore, no one would have any appeal from the order. The purpose of the Senator is to make it possible for the members to have a right of appeal.

Mr. HASTINGS. As I stated, the purpose of the amendment is to allow persons who are aggrieved, but who may not have been technically parties to the proceedings to have a right of review. Certainly it seems to me they ought to have the right to a court review.

Mr. FLETCHER. Mr. President, the committee considered that suggestion, spending a good deal of time on it. On its face the amendment appears to be somewhat fair, but we reached the conclusion that it would give a right of review to many not entitled to it. Parties concerned with an order might be satisfied with it, but someone outside, who had some other interest which he wanted to serve, might undertake to come in and appeal from the order. The amendment is an invitation to people outside, who may have some selfish, personal interest to serve, and who are not at all parties to the suit, to come in and appeal from the order. I think it would be very unwise to adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk another amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 51, line 5, after the word "seller" it is proposed to insert "for the purpose of inducing the purchase or sale."

Mr. HASTINGS. As at present drawn, any statement as to the effect of the action or failure to act of the commis-

sion, even if made by a person who is in no way connected with the security business, might be unlawful and subject to criminal penalties. The amendment is intended to restrict the criminal penalties to persons making the unlawful representations for the purpose of inducing securities transactions.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. HASTINGS. Mr. President, I send to the desk an amendment on page 56 which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 56, beginning with line 3, it is proposed to strike out all down to and including the word "imposed", in line 21, and in lieu thereof to insert the following:

SEC. 30. Any person who willfully violates any provision of this act the violation of which is made unlawful under the terms of this act, or any person who willfully violates any rule or regulation made thereunder, the violation of which pursuant to section 4(b) of this act shall be subject to the penalties provided in this section, or any person who willfully violates any order entered pursuant to this act in a proceeding to which he was a party, or any person who willfully and knowingly, personally or through another, makes any statement in any application, report, or document required to be filed with the commission under this act, or any rule or regulation thereunder, or in any communication, oral or otherwise, subject to the provisions of section 9 (a) (4), which statement was at the time and in the light of the circumstances under which it was made, false or misleading in any material respect, shall upon conviction be fined not more than $25,000 or imprisoned not more than 5 years, or both, except that if such person is an exchange, a fine not exceeding $500,000 may be imposed.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware.

Mr. HASTINGS. I ask unanimous consent to withdraw the amendment, because it would only be applicable in case another amendment heretofore offered by me had been adopted.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. HASTINGS. Mr. President, I have on the desk an amendment to come in on page 54, line 17, in which I write in the words "contract or", so as to read:

Nothing in this act shall be construed (1) to affect the validity of any contract or loan.

There are several other places in which the same words have been written in. I have talked with the Senator from South Carolina [Mr. BYRNES] with respect to that amendment; he agrees that there ought to be some modification of the provision, and he is now having prepared an amendment which will make the necessary changes. I am quite certain that when that shall be done it will be agreeable to me, and I will not offer this particular amendment.

I have another amendment which I have not had printed, and which I have not submitted to the chairman of the committee, but I will submit it to him and see if I can get him to consent to it.

I have one further amendment which I desire to offer at this time to come in on page 10.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 10, it is proposed to strike out, beginning in line 5, down to and including the word "subsection" on page 11, line 4, and to insert the following:

(c) The commission is authorized to appoint and fix the compensation of such attorneys, examiners, and other experts and employees as may be necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

All of the expenses of the commission, including all necessary expenses for transportation, incurred by the commissioners or by employees under their orders in making any investigation or upon official business in other places than in the city of Washington shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the commission. Until otherwise provided by law, the commission may rent suitable offices for its use. The General Accounting Office shall receive and examine all accounts of expenditures of the commission.

Mr. HASTINGS. Mr. President, the proposed amendment is drawn from the Federal Trade Commission Act, and provides that the expenses of the commission shall be appropriated for by Congress, and that the employees of the commission, except those specially exempted, shall be subject to the Civil Service Commission law. This is the usual provision adopted in regard to other administrative commissions.

Mr. BORAH. Mr. President, I observe that the bill permits the commission to fix the compensation of officers and attorneys and examiners. Does the Senator's amendment also permit that to be done?

Mr. HASTINGS. No; not at all.

Mr. BORAH. From the reading of the amendment at the desk, I think it has the same vice as is contained in the bill.

Mr. HASTINGS. The purpose of this amendment is to make it a Federal function and to provide that the persons employed by the commission shall be paid out of the Federal Treasury like other Government employees. I am not quite certain, without a thorough examination, whether or not the amendment covers the particular point the Senator from Idaho has in mind.

Mr. GORE. Mr. President——

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware. The Senator from Oklahoma is recognized.

Mr. BORAH. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Delaware [Mr. HASTINGS] had the floor. To whom does the Senator from Delaware yield?

Mr. BORAH. I was asking the Senator from Delaware a question and had not as yet received an answer.

The PRESIDING OFFICER. Does the Senator from Delaware yield further to the Senator from Idaho?

Mr. HASTINGS. I yield.

Mr. BORAH. The question was this: The original bill provides that the commission shall fix the compensation of all officers, attorneys, examiners, and so forth. Does the Senator's amendment leave that as it is in the bill?

Mr. HASTINGS. Mr. President, in reply I will say that section 4 (a) is left as it is, and section 4 (b) is left as it is, section 4 (a) being the one that provides for the selection of the commission and fixes the salaries of the commissioners. It is not until we get to section (c) that there is any particular change made and that change is drafted largely from the Federal Commission Act.

Mr. BORAH. Mr. President, I was seeking to find out whether we are going to leave in the bill the power in the commission to fix compensation, which I think, is a very unsatisfactory way to fix compensation. It is an unwise provision.

Mr. HASTINGS. Mr. President, the effort which I am making by this amendment is to provide that the employees of the commission, in carrying out this new function, shall be selected in a certain way, just as the Federal Trade Commission select their employees. The item of salaries would be a national expense just as in the case of other commissions. As the bill stands today, it is a little uncertain just what happens, but I think a reasonable interpretation of the language is that the commissioners levy an assessment upon the stock exchanges for the purpose of collecting sufficient money to pay their own salaries. Someone has asked me that question, and it is the only interpretation that I can put upon the language of the bill.

Mr. LOGAN. Mr. President, 2 or 3 days ago I gave notice of amendments which I intended to propose to the bill under consideration. Perhaps the Senator from Delaware [Mr. HASTINGS] has covered most of my intended amendments among those which he has offered and which have been rejected. It is perfectly evident to everyone who has observed the proceedings that no amendment can be adopted

unless it has the approval of the committee or the members of the committee now in charge of the bill on the floor. I make no complaint about that.

The amendments which I meant to propose were not unfriendly amendments. I am in most hearty sympathy with the purposes of the bill. In going over the bill, which I have done rather carefully, it seemed to me that it was vague in some respects, and in others perhaps it contained some provision which unintentionally would work a hardship on this or that group of people. One of the amendments which I meant to propose was for the purpose solely of improving the provisions of the bill so that it would be more workable and would prevent injury to some of those who thought they might be injured.

I see no occasion to call up the amendments. It is understood, I believe, that the bill will have to go to conference. When it goes to conference the suggestions which I intend to make about the amendments can better and more properly be made to the conferees. I would prefer that when the conference committee comes to consider it, my amendments be considered as amendments which were not rejected by the Senate when the bill was under consideration. For that reason I am not going to propose the amendments, but I shall make some suggestions to the members of the conference committee in the hope that I may be able to convince them, thinking perhaps I can convince them more easily than I can convince my colleague the Senator from Florida [Mr. FLETCHER], of the propriety of adopting some of the suggestions.

There are two suggestions I desired to propose in the form of an amendment which I did not offer an amendment to cover. One of them relates to a provision on page 40, which was in a way covered by one of the amendments offered by the Senator from Delaware. There is a provision, beginning on page 40 and ending on page 41, relating to information to be contained in reports, which reads as follows:

As used in this subsection, the term "statement" shall be construed to include any omission to state a material fact which is required to be stated in any such application, report, or document, or which is necessary to make the statement not misleading.

There is a 5-year statute of limitations which applies to bringing suits because of misleading statements. A matter may have been omitted when the statement was prepared upon the idea that it was not material, and indeed it may not have been material at that time. But as time passes someone reaches the conclusion he has lost money in gambling on the stock market, because generally that is what it is, and he will go back to find out whether there was anything omitted in the statement.

It is very much like the situation when a witness is placed on the witness stand and is sworn to tell the truth, the whole truth, and nothing but the truth; but we have never yet heard of a witness being prosecuted because he did not testify to something on the witness stand. We are extending that rule by the requirement in this bill that when anyone who comes under the provisions of the bill is required to make a statement he may be punished, not only for what he says but he may be punished for what he omits to say.

I am making reference to that point at this time solely for the consideration of the conference committee, as it is entirely impractical to explain in detail to the Senate just what effect these particular amendments would have. That is the reason why we cannot get amendments adopted, however deserving they may be and however desirable it may be that they should be adopted, because we cannot explain to the Senate as easily as we can explain to a committee.

Mr. BORAH. Mr. President——

Mr. LOGAN. I yield to the Senator from Idaho.

Mr. BORAH. How will the conference committee be able to consider this matter if it is not before them as an amendment?

Mr. LOGAN. In the House bill there is nothing on the subject. If the Senate has included this provision, as I understand, the conferees can consider it. I do not know much about those things, but I am told that is so.

Another suggestion I would make relates to a provision in the bill which, I think, ought to be eliminated by the conference committee in its report. I understand the House, perhaps, has no such provision in its bill. I will read just a line. It is the provision dealing with transactions on the stock exchange. A man purchases stock. The seller must make a statement to him, in writing, I believe, of his interest, or whether he has any interest in the sale. Whatever it may be, it is a statement which the seller makes. This is the language, to be found on page 27:

If disclosure is not made as prescribed by the commission, the customer may, within 10 days after the completion of the transaction, disaffirm such transaction.

It occurs to me that if a sale were made by a broker in New York to a man who resides in New York 10 days is a long time for him to consider whether he will go back and disaffirm his trade because of some technical failure to comply with the law. The stock may be selling at 200 when he buys it and 10 days thereafter it may be selling at 50, and he would have every inducement to return to the seller with the complaint that something was omitted in the statement at the time of the sale. Ten days, it seems to me, is entirely too long to give a man to think over whether he is going to ask for a rescission of the transaction.

We might say a man residing in California buys stock of a broker doing business in New York. He certainly would need a longer time than the man residing in the city of New York. The time ought to be as short as it is possible for it to be consistent with the purposes of the measure. It seems to me that the 10-day provision should be eliminated by all means, and that the commission, as it has the power to make rules and regulations, should prescribe certain rules and conditions upon which the buyer may return to the seller and ask for a rescission of a contract on the ground that the seller did not comply with the law at the time he made the sale.

I do not have any desire to take any more of the time of the Senate. I merely wanted to put in the RECORD the reason why I am not asking for a vote on each separate amendment, which I had given notice I would propose. In fact, I think my amendments have already been voted on in voting on some of the amendments offered by the Senator from Delaware [Mr. HASTINGS]. I think he covered the subject pretty thoroughly.

Mr. COPELAND. If I understand the motion of the Senator from Delaware, it relates to page 10, subsection (d), regarding the expenses of the commission. Is that correct?

Mr. HASTINGS. That is correct.

Mr. COPELAND. In all frankness, Mr. President, it seems to me that this language written in the bill gives the most remarkable latitude that has ever been given to a public body. It is like putting a fox in a chicken house. The commission can go on a joy ride every day. It can spend all the money it wishes to spend. It can have any sort of equipment it desires, as many employees as it may regard necessary for the conduct of the business and for its pleasure, and can assess against the exchange and its members any amount of money it wishes.

I think the provision of the bill is perfectly absurd. I have prepared an amendment to it. I do not know whether the amendment should be offered as a substitute for that offered by the Senator from Delaware or otherwise. At any rate, I send it to the desk, and after it is read we may decide how it should be handled, whether as a substitute for the amendment now before us, or whether it should be put over until the other amendment has been given consideration.

I ask to have the amendment read.

The PRESIDING OFFICER. The amendment offered by the Senator from New York will be stated.

The LEGISLATIVE CLERK. In the nature of a substitute for the amendment of Mr. HASTINGS, it is proposed, on page 10, beginning with line 11, to strike out through line 4, on page 11, and to insert in lieu thereof the following:

(d) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, (1) such sums as may be necessary to enable the commission to complete its organization and to carry on its work during the first year after its establishment, and (2) such sums annually thereafter as may be necessary to enable the commission to carry on its functions under this title.

(e) Every national securities exchange shall pay to the commission on or before March 15 of each calendar year a registration fee for the privilege of doing business as a national securities exchange during the preceding calendar year or any part thereof. Such fee shall be in an amount equal to one five-hundredth of 1 percent of the aggregate dollar amount of the sales of securities transacted on such national securities exchange during the preceding calendar year. The commission shall pay into the Treasury the amount of all fees paid to it under this subsection on or before April 1 of each calendar year, and the same shall be covered into the Treasury as miscellaneous receipts.

Mr. COPELAND. Mr. President, it seems to me that this amendment provides an orderly manner of dealing with the expenses of the commission. It will then provide that a budget must be set up, that the Congress may know what are to be the expenses of the commission, may have some voice in what shall be done in the operation of the commission, and how far it shall go in the expenditure of money. Then there will be set up at the same time a provision that there shall be an assessment.

I am not tied to the amount of the assessment. I have suggested one five-hundredth of 1 percent of the aggregate dollar amount of sales, because that happens to be the amount specified in the House bill. But certainly that is a sufficient sum to make it certain that the Government will be reimbursed for the expenditures necessary for the operation of the commission, and it makes an orderly, decent, businesslike arrangement of the operation and administration of the commission.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. BARKLEY. Under the bill as drawn by the Senate committee, the amount of the assessment is to be left entirely to the commission. Does not the Senator think that for the Congress to fix any assessment will lead to the possibility of raising entirely too large an amount? All that either the House or the Senate, or both combined, would want is sufficient money to pay the expenses of the commission. If we undertake to say what the assessment shall be, we may assess an amount entirely too high; and that raises the question, What is to become of the surplus if more is raised in this fund than is needed?

It seems to me that any commission would fix only such an assessment as would raise the amount of money required to pay the expenses of operation, and that they would be in a position from time to time to know what those expenses are much better than we now are able to know.

I have no idea how much will be required for this purpose, and I do not think anybody else has. I have no idea, and I doubt if anybody else has, whether the assessment provided in the amendment of the Senate—which, I understand, is the same as that provided in the House bill—is enough or too much. If it is not enough, of course we shall have to amend the law later. If it is too much, somebody will be entitled to a refund of the surplus.

It seems to me much better to leave the matter to the commission, which will be governed by the needs of the service; and we shall be here at any time to put a curb upon any extravagant expense the commission may incur, even though it is not to be paid out of the Public Treasury.

Mr. COPELAND. Mr. President, I may say to the able Senator from Kentucky that after the Budget has been made by the Congress, and after a determination has been made of the expense likely to be properly incurred, I have no objection to the commission being given power to fix the assessment; but under the language of the bill as it comes to us there is no limitation whatever either upon the activities of the commission or upon the way in which the money is to be spent. It may be spent for strawberry festivals and trips to Florida. It may be spent for anything. There is absolutely no restriction upon the commission.

Mr. BARKLEY. If the commission shall be given the power to levy an assessment to meet its own expenses, it certainly will not be as prone to levy a sufficient assessment to enable it to have strawberry festivals, or to take a trip to Florida, as if it should find itself with a surplus on hand that the commission itself had nothing to do with raising. I think, anyway, that the illustration is a little far-fetched.

Mr. COPELAND. Oh, no! Let me say to the Senator that under the amendment I propose the fees are to be paid into the Treasury of the United States, and if we find then that we have levied too large an assessment or too small an assessment, the situation can be corrected in the following year.

Mr. BARKLEY. We have the same provision with respect to the Federal Reserve banks and the Federal Reserve System. The Board levies an assessment sufficient to meet the expenses. Congress did not attempt in advance to fix the expenses. Nobody knows how much will be required.

Mr. COPELAND. Is there no provision about the Budget of the Federal Reserve System?

Mr. GLASS. No, Mr. President. What has the Budget to do with the Federal Reserve System? The Government does not expend $1 on the Federal Reserve System, and never has.

Mr. COPELAND. Mr. President, if the majority of the Senate care to place in the hands of the commission unlimited power to spend money and unlimited power to make assessments against the exchanges, if that is the wish of Congress, all right; but I say it is unbusinesslike, it is not an orderly fashion of doing business, nor is it a proper course to turn loose upon the exchanges of the country a commission to spend all the money that the commissiion may care to spend.

Mr. BARKLEY. Mr. President, if the Senator will yield further, I know nothing about how much money this assessment would raise; but I have been told by men who claim to be familiar with the stock exchange and its transactions that the assessment carried in the House bill and in the amendment offered by the Senator from New York will raise funds that will amount to four or five times as much as will be needed to carry on the expenses of the commission.

Mr. COPELAND. Very well. Then the Senator can propose that the assessment be one one-thousandth of 1 percent.

Mr. BARKLEY. I do not know enough about it to offer an amendment. Nobody knows.

Mr. COPELAND. I am willing to have the amount of the assessment left to the commission——

Mr. BARKLEY. That is what the Senate bill does.

Mr. COPELAND. In a sum sufficient to pay the budgetary expenses set down by the Congress.

Mr. GLASS. Mr. President, what has the Federal Budget to do with this matter? The Federal Budget is supposed to budget the receipts and expenditures of the Federal Government. The Government is not involved in any expense whatsoever in this connection. It is just exactly like the Federal Reserve banking system.

All the expenditures of the Federal Reserve banking system are borne by the member banks, subject to the approval of the Federal Reserve Board. The Budget has not anything in the world to do with it.

Mr. BARKLEY. And the Director of the Budget makes no estimate to Congress for any expense connected with the Federal Reserve System.

Mr. GLASS. Not at all.

Mr. BORAH. Mr. President——

Mr. LOGAN. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield to my friend from Kentucky.

Mr. LOGAN. I have no desire at all to enter into a discussion of this question with my distinguished colleague from Kentucky [Mr. BARKLEY] or the very distinguished Senator from Virginia [Mr. GLASS]; but I should like to serve a warning on them, the members of the committee, and the entire Senate, that we had better be very careful in delegating not only the taxing power, but the power to create the necessity for taxes, and, going still beyond that, in allowing a commission to make its own laws which may require the expenditure of the tax money.

It has always been a well-established law that the power to tax cannot be delegated. That power is in the legislative branch of the Government, and it cannot be delegated. There has been one further step, and that is that it is not a delegation of the power to tax if the exact rules and regu-

lations are prescribed that must be followed by some commission or some individual in arriving at a conclusion as to how much the tax shall be. The courts have said that that may be done; but here there is a shifting base, and a commission is provided for with power to prescribe regulations that cost money to carry out, and the commission is given power to say how much money it will collect and spend.

I do not believe that any commission at all will abuse the privilege. I am not afraid of any commission that may be appointed. What I am afraid of is that after we enact this law—a necessary and an important law—some great stock exchange will say, "We are not going to pay a cent toward the support of this commission", and the matter will be taken into court, and the court will say, "Your method of maintaining the commission is illegal", and the whole thing will fall to the ground.

That is what I should like to have considered, if possible, by this body, and also by others who are interested in the bill.

Mr. GLASS. Mr. President, if the Senator from New York will yield further——

The PRESIDING OFFICER. Does the Senator from New York further yield to the Senator from Virginia?

Mr. COPELAND. I do.

Mr. GLASS. We have been doing that very thing for 67 years in the administration of the National Bank Act. Ever since the establishment of national banks in this country the Comptroller of the Currency has been authorized to collect from the banks the expenses incident to their examination. It would be literally impossible to estimate what those expenses would be as to banks. The Comptroller of the Currency at any time might be called upon to put a hundred examiners in some great bank that was engaged in illicit or irregular practices, or was threatened with insolvency, and nobody could foresee anything of that kind. But every bank that is examined is assessed by the Comptroller of the Currency to pay the costs of the examination. So, as I nave already indicated, in the Federal Reserve System. The general impression is that the Federal Reserve System is owned by the Government of the United States. The Government has never put up a 10-cent piece toward the expenses of the Federal Reserve System. They do not even pay a janitor's wage, but, from the janitor up to the Governor of the Federal Reserve Board, assessments are made against the member banks, and there has never been a protest.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. COPELAND. Not yet, Mr. President. There is not a man in the Senate who is more highly respected than is the Senator from Virginia. He speaks ex cathedra. We are glad to listen to him and usually to accept his views. But to me it is an amazing thing that one so conservative as is the Senator from Virginia should be willing to give unlimited power of raising money for maintenance and expense of operation, and of collection of fees, to a body like the one proposed.

The bill has been passed at the other end of the Capitol proposing to put these powers in the hands of the Federal Trade Commission. Does anybody here believe if we were proposing to give these powers to the Federal Trade Commission, and proposing to give that Commission the authority to levy an assessment sufficient to pay all the expenses to be incurred in the administration of this proposed law, that it would meet with favor? I am sure no Senator would rise to say that we would approve such a thing.

Mr. CLARK. Mr. President, will the Senator yield to me?

Mr. COPELAND. I yield.

Mr. CLARK. Did the Senator vote for the N.R.A.?

The PRESIDING OFFICER. The time of the Senator from New York on the amendment has expired.

Mr. COPELAND. Very well, Mr. President; I will leave the question with the Senate.

Mr. HASTINGS. Mr. President, I desire to ask the Senator from New York a question.

Mr. BARKLEY. Mr. President, I will ask recognition in order that the Senator from Delaware may propound a question to the Senator from New York in my time.

Mr. HASTINGS. I want particularly the attention of the Senator from Virginia, who does not see any difference between the assessment provided under the pending measure and the tax imposed upon the Federal Reserve banks. My attention has been called to the fact that the Federal Reserve is an agency of the Government, exercising a monopoly in regard to the issuance of currency, and the profits derived from this monopoly inure to the Government itself.

I got the distinct impression that under the Federal Reserve Act no bank was compelled to join, that it was a voluntary thing. But there is nothing voluntary about this measure. This is a measure providing control over all stock exchanges. They cannot operate except with the consent of the commission proposed to be set up. There is provided clearly a tax to be imposed upon them by a commission, and it is clearly a delegation of the authority of Congress to that commission. I am surprised to hear anybody say that we have done anything like this before or anything that is even comparable to it.

Mr. BARKLEY. Mr. President, in that connection I will say that it was voluntary as to whether any State bank should join the Federal Reserve System. It was not voluntary so far as national banks were concerned so long as they held their charters as national banks. They might surrender their charters as national banks and become State banks, and in that eventuality they had the right to decide whether they would come into the Federal Reserve System or not, but so long as they remained national banks they were required to join the Federal Reserve System.

I do not care to discuss that phase of the subject. So far as I am concerned, I will say frankly that I have never been enthusiastic about charging the expenses of operating any branches of the Government against those to be regulated. I have always thought, and I still think, that it is a bad principle of government to regulate anybody who ought to be regulated in the public interest and then charge against the regulated the expenses of the regulation. I do not now enthuse over that proposition, either as to the Federal Reserve System, or as to this particular bill, or any branch of the American Government. I think that any law which is enacted setting up machinery for regulation by Congress in the interest of the American people ought to be administered out of the Treasury of the United States, and that we should allow those who are regulated to pay taxes, as everybody else pays taxes, into the Treasury. But we have embarked upon that principle, and today from the Committee on Interstate Commerce there was reported a pension measure, applicable to railroad employees of the United States, under which the expense not only of the pension but of the administration of the act, if the bill should be enacted, and the payment of all the expenses of the board and the commission and the employees would be assessed upon the railroads.

Mr. STEIWER. Mr. President, will the Senator yield to me?

Mr. BARKLEY. I yield.

Mr. STEIWER. In reference to what the Senator from Kentucky is saying, about the lack of wisdom of attempting to regulate any institution in the public interest at the expense of the person to be regulated, is not this particular proposition even more objectionable, because a large part of the regulation will be regulation of the over-the-counter markets of the brokers who operate on those markets, but all of the expenses under this appropriation are to be assessed against the stock exchange? So we would not only have an assessment of a private interest to provide regulation for the public good, but we would have assessments on one private interest to provide regulation of that interest and of other groups with which that interest was not identified.

Mr. BARKLEY. My impression at the moment is, without refreshing my memory by reading the language, that the commission might also assess brokers. If that be true,

they could assess brokers engaged in over-the-counter transactions, as well as exchanges.

However, as the Senator from Virginia has already said, we started out nearly three quarters of a century ago doing this thing; we have done it with respect to other activities, and we seem to be increasing our propensity for doing it. Yet I am not convinced that it is a wise principle of government. After a while, if we shall continue to do it, and the necessity for regulating more groups in the country shall bring about the enactment of more laws, we will have all the people who are regulated paying the expenses of their own regulation, and I am not so sure but that after a while the regulated will control the regulators, and therefore we will have to change our system of regulation.

I have always felt that it was a bad principle of government to do that. I am not yet convinced I am wrong about it, although I recognize there is precedent for it in acts which have already been passed by Congress. But if we are to do it, I think it is infinitely better to give the commission power to do it, than to fix a hard and fast rule in the law itself, which would provide that we must assess against these exchanges a certain amount of money, whether that much is needed or not. We cannot even guess as to how much is needed at this time so as to write it in the bill. It will be a varying amount. It will not cost the same each year, and, as the result of that variability, Congress would be amending the law every year it convened, either raising or lowering the assessments against the exchanges.

Mr. BORAH. Never lowering them.

Mr. BARKLEY. No; they would never be lowered.

Mr. FESS. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. FESS. Would there not be another objection, in that if the Government were doing it, there would be more reason for limiting the amount to the exact necessity, while if it were assessed upon someone else, they would not be so careful about it?

Mr. BARKLEY. That is possible, although I think that if the assessment on the exchanges, and those who are to deal with them, is more than is necessary to pay the expenses, they will raise sufficient howl about it so that it will be lowered the next time an assessment is made.

Mr. GLASS. Mr. President, the Senator from Kentucky does not imagine that there will be any assessment for strawberry parties, does he?

Mr. BARKLEY. No; of course not.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. CLARK. So far as the purely legal proposition, the delegation of power, is concerned, the delegation of the taxing power of the Congress, is there any difference on earth between the proposal in this bill and the provision contained in the measure which has heretofore been passed by the Congress authorizing the Secretary of Agriculture to levy a processing tax?

Mr. BARKLEY. Not at all. I see no difference in principle at all.

Mr. CLARK. Or in the so-called "N.R.A. measure", authorizing the President to adopt and legalize codes which, in themselves, involve the taxing power?

Mr. BARKLEY. I see no principle involved in this bill that is different from those involved in any of the other laws passed authorizing branches of the Government to fix taxes, or assess a tax in order to raise money to administer the law.

Mr. HASTINGS. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. HASTINGS. I just want to observe in answer to the Senator from Missouri that there is this one difference, I think. One is an emergency measure and relief measure, while the other is permanent.

Mr. GLASS. How could the Senator know that it is an emergency measure?

Mr. HASTINGS. I hope it is. That is as far as I can go. It is pretended to be.

Mr. BARKLEY. So far as the power to levy the assessment of a tax is concerned, I do not think there is any difference in principle.

Mr. CLARK. If the Senator from Kentucky will be kind enough to yield to me for a moment more, I will say that, personally, I have never seen any difference, so far as the Constitution and laws of the United States are concerned, between what Congress would be authorized to enact in time of emergency and ordinary times; between times of war and times of peace.

Mr. BORAH. Is the Senator from Virginia going to speak?

Mr. GLASS. No, Mr. President.

Mr. BORAH. I do not wish to take the floor from the Senator.

Mr. GLASS. No; I do not want the floor.

Mr. BORAH. Mr. President, I hope the Senator from Delaware will not leave in the RECORD a statement which would imply that as a lawyer he thinks that an emergency adds anything to the taxing power under the Constitution.

Mr. HASTINGS. If I left such an impression, I should like to correct it. A great many people seem to think it is important, and I made the suggestion because there was that possible difference.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. BORAH. I yield.

Mr. CLARK. If the Senator made that remark in response to anything I said, I should like to make myself perfectly clear. I never have known at any time that Congress had the right to declare an emergency to suspend the Constitution.

Mr. HASTINGS. Will the Senator yield for a moment?

Mr. BORAH. I yield.

Mr. HASTINGS. I merely wanted to make this observation, and I only made the suggestion a moment ago because the extraordinary powers referred to have been constantly urged upon the Congress, and I think the Congress has undoubtedly given way to the demand and request because they were emergency measures. I only make the distinction because I say that in the present case the same excuse cannot be made for asking for this extraordinary power.

Mr. BORAH. Mr. President, an emergency may justify the action of Congress in doing something that it has the power to do under the Constitution, which it would not do in normal times, but an emergency can have no effect upon the power which the Congress has to do or not to do a thing under the Constitution. There may be powers which the Congress has not seen fit to exercise in normal times which it may exercise in abnormal times, but whether they are normal times or abnormal times, the authority must be found in the Constitution of the United States, and when the Constitution is reached the emergency has absolutely nothing to do with the question of power. We in this Chamber ought to be able to demonstrate that fact by our words and by our votes. Even the Supreme Court of the United States seems to have given some recognition to that fallacious theory. It is a false, vicious, and dangerous theory.

Mr. President, the commission is authorized, it says on page 10, line 5—

> To appoint and fix the compensation of such officers, attorneys, examiners, and other experts and employees.

I ask the Senator from Virginia if he does not think that there ought to be some supervisory power over the commission to fix salaries of attorneys, and so forth, in view of the fact that the commission may turn about and assess that entire expense upon the citizens of the country.

Mr. GLASS. Mr. President, I do not concede that they may assess that entire expense upon the entire citizenry of the country.

Mr. BORAH. I did not say the entire citizenry.

Mr. GLASS. I know the Senator did not, but that is what is involved in some of the remarks that have been made on this problem. I think if there ever was a case where those who are to be supervised ought to pay the expense, it is in this particular case. Everyone does not gamble on the stock

exchange. Everyone does not speculate on the stock exchange; and if there have been abuses on the stock exchange that required governmental statutory supervision the ones responsible ought to endure the expense, and not the taxpayers of the country.

Mr. BORAH. That may be correct; but there are honorable, clean gentleman who use the stock exchange.

Mr. GLASS. Oh, yes.

Mr. BORAH. And the assessment is not being made against those who are at fault but the assessment is being made against all who use the stock exchange.

Mr. GLASS. Yes; but the proposition has been made, as I have heard the discussion, to assess against the taxpayers and audit here in Washington the expenses of this commission. I do not think that ought to be done. The people who are being regulated ought to be required to pay the expense. If the exchanges had done as they should have done, there would not be any necessity for regulation.

Mr. BORAH. With reference to some, that is true.

Mr. HASTINGS. Mr. President, I am not objecting to the stock exchanges paying the bill; but if the stock exchanges of this country are to pay it, the Congress ought to levy and collect that tax and let it be paid into the Treasury of the United States, and then provide for the necessary machinery to control it afterward. So far as I am concerned, it does not make any difference if the stock exchanges are assessed 50 percent more than is necessary; but what I am complaining about is that this power is given to a commission, and there is offered to that commission the great temptation to be liberal with all the people they employ, to waste money; in other words, to tax people without any representation. That is my objection.

Mr. BORAH. Mr. President, the provision giving boards the power to fix compensation for attorneys and employees, and so forth, is being spread throughout all our legislation. We are giving this power in different bills which have been passed and bills which we shall pass. We give to a board over whom we have practically no control, so far as that item is concerned, the power to fix compensation paid to attorneys, and so forth. It is a reckless grant of power.

Without mentioning specific instances, I think all Senators will recall that there have been several instances in the history of this country in recent years where that has become almost a graft, a scandal; lawyers being paid $35,000 and $40,000 a year who could not earn $5,000 a year outside that employment.

There ought to be some supervisory power with respect to fixing of compensation, irrespective of who has to pay the bill. If Congress gives the commission the power to levy the assessment, still we should, in justice to those upon whom the levy is made, see that there is some supervising power with respect to the question of fixing the compensation.

I am not going to offer an amendment, Mr. President, because I do not suppose it is likely to prevail, but the committee which has this in charge ought to take into consideration an amendment to the effect that the commission is authorized to appoint, and by and with the approval of so-and-so to fix the compensation. There ought to be a review of the compensation. There ought to be a consideration of it by those who are not immediately concerned in the fixing of it, and so forth. I urge that not for this bill alone but there are other bills, some of which we have been considering in the last few days, giving to boards the power to fix compensation, and I know that it will lead to results for which those who are responsible will deeply regret hereafter.

Mr. GLASS. So far as I am concerned, I am willing to put in the proposed statute a limitation upon legal fees, if that is desirable. I do not know just exactly what authority we might appeal to to supervise the supervisors. To whom would the Senator delegate the authority to approve or disapprove the assessments made by this board? And what authority would be better advised as to the necessity of an assessment than the commissioners themselves?

Mr. BORAH. Of course, it is assumed that they will be advised about that matter. But we do not give the highest judicial officers of the country power to fix their salaries.

Mr. BARKLEY. We do not give the board the power to fix the salaries here.

Mr. BORAH. Well, in practice it is the same thing.

Mr. BARKLEY. We fix their salaries in the bill. I do not know how Congress could have enough information about what attorneys and special experts they may need, to fix the salary of each one in the law in advance. We do not even know how many they will need. We do know what type of men they will have.

Mr. BORAH. No; I think that would be very difficult to do. But suppose we should say, "with the approval of the President."

Mr. BARKLEY. I should have no objection to that.

Mr. HASTINGS. Mr. President, I was about to call the Senator's attention to the fact that with respect to the budgets, as I understand, which are fixed for the various codes—those budgets, before being put into effect, and before assessments are made, are approved by the President. Certainly we might go that far in this instance without doing any particular harm, and it would be some guide, and give some control over the situation.

Mr. BORAH. I think the very fact that the President had to approve, whether or not in each instance his specific attention was required, would have a very desirable effect.

Mr. BARKLEY. I will say to the Senator that in the Economy Act we provided that no vacancy could be filled, where a vacancy existed, except by the approval of the President, so that now if there is a vacancy in the office of a deputy United States marshal or a deputy collector of the remotest district in the United States, the collector of internal revenue in the State or the Commissioner of Internal Revenue here in Washington cannot fill that vacancy by appointing a man to a $1,200 job without sending the nomination to the White House and getting the President's specific approval thereof before the appointment can be made. I happen to know that in some cases it has resulted in delays. It is bound to be a matter of routine.

The President cannot investigate each one of these little cases. I do not know just to what extent he would be in a position to investigate the salary of each man who might be employed by this commission. In our effort to tie up these boards here in Washington, I think we have gone too far, especially in regard to the matter of salaries.

Mr. BORAH. Of course, Mr. President, we are passing laws every day which impose duties upon the President which no human being can possibly perform, but it does have a very salutary effect upon such matters as this to know that such questions may be brought, and in the first instance are brought at first, to the attention of the President or some supervising power.

Mr. GLASS. We are passing laws imposing duties that no human being could perform.

Mr. BORAH. There is no question about that.

Mr. STEIWER. Mr. President, in dealing with this rather important section 4 of the bill I will endeavor to express my views in connection with several features of it. I voted in favor of the amendment offered by the Senator from Colorado [Mr. COSTIGAN] not because I regard the Federal Trade Commission as being particularly better adapted to administer the law than a special commission appointed for this purpose. I voted for administration by the Federal Trade Commission because it is a conventional and controlled agency of the Government. It is subject to the restrictions to which all the other governmental agencies are subject. The objections that arise to section 4 of the bill would not arise if we were to delegate this authority to the Federal Trade Commission rather than to a special commission.

Mr. President, I believe the following observations are justified as to section 4:

First. It places no limit on the number of employees.

Second. It places no limit on the salaries of employees.

Third. It places no limit on the amount of expense that may be incurred by the Securities Commission.

Fourth. It places no limit on the assessments that may be levied on national security exchanges.

Fifth. It makes no requirement for civil-service eligibility, nor does it provide for application of the Classification Act to employees.

Sixth. It results in no supervision as to expenditures by the Bureau of the Budget.

Seventh. It does not require the commission to make any justification for its activities and expenditures to the Congress or to committees of the Congress.

Eighth. Its accounts and expenditures are not under any restraint by the Comptroller General.

There are probably other observations which might be made with respect to it which just as forcefully condemn it as do the eight I have enumerated.

I see great merit in the amendment offered by the Senator from New York [Mr. COPELAND]. As I understand the amendment, it provides that the expenses of the commission shall be paid by regular appropriations made by the Congress. It provides in the second instance that the commission shall levy upon the stock exchanges certain assessments which are to be covered into the Treasury as miscellaneous receipts. The net result of that procedure is to accomplish an orderly and controlled administration of the business of the commission.

The commission would be obliged to take its estimates to the Bureau of the Budget, and it would be obliged to justify those estimates before the Appropriations Committees of the House and Senate. Moreover, expenditures, when made, would be subject to the approval of the Comptroller General of the United States. Adoption of the amendment would obviate the objections suggested by the Senator from Kentucky [Mr. LOGAN], and I want to repeat his suggestion because to me it is very disturbing in its import.

He suggested in effect that in the proposed commission there is a power to create expenses because the commission makes its own rules and regulations. That in the main is true. The commission has almost unlimited power to make rules and regulations for carrying into effect the different provisions of the bill. What, therefore, is to determine the amount of the expense of the commission? Primarily, the expense will be determined by the nature of the rules and regulations which the commission promulgates. If the commission makes rules and regulations which necessarily require the expenditure of money, the assessments will be large. If the commission is conservative, the assessments will be small.

In this regard the commission is substantially without restraint, and will be governed by its own discretion in making its rules and regulations. Having done that, it will fix the assessments to fit the requirements. Not only will it fix the assessment upon the stock exchanges which it will regulate, but it will do so in order to get the money to administer the over-the-counter markets and to control and regulate the brokers' offices of the country.

Mr. President, it seems to me if we are to make any pretense at all of providing a law-abiding administration—and I use the term only in the sense of whether it is to run wild with respect to expenses—we ought to put it under the normal, usual restraints to which we subject other agencies of the Government. The proposal of the Senator from New York [Mr. COPELAND] will not injure the administration of the law. It will not change the powers of the Commission except that it will require the Commission to go to the Bureau of the Budget, and then to committees of the Congress, and then to have the legality of its accounts audited by the Comptroller General of the United States.

I would suggest to the Senator from New York, if he wants a suggestion from me with respect to it, that instead of providing the fees shall be in an amount equal to one five-hundredth of 1 percent, he change the language so it will read something like this:

That such fee shall be in such amount as the commission may find necessary to meet the expenses of the administration of this act, not to exceed one five-hundredth of 1 percent.

Mr. COPELAND. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from New York?

Mr. STEIWER. Certainly.

Mr. COPELAND. I thought of suggesting that the language be changed to read as follows:

Such fees shall be fixed by the commission and in an amount sufficient to pay the expenses of the commission.

Then there will be a difference of language between the two Houses and latitude sufficient to work out a satisfactory plan.

Mr. STEIWER. I think that would be a sufficiently satisfactory adjustment of the matter. I would not contend further upon that point.

I want to make one further suggestion, however. As I understood the Senator from New York, he offered his amendment as a substitute for the amendment offered by the Senator from Delaware [Mr. HASTINGS]. The latter's amendment is to subsection (c). The amendment offered by the Senator from New York is to subsection (d). I think there is no necessary conflict between the proposals, and therefore the amendment offered by the Senator from New York ought not to be offered as a substitute for the other amendment. It might well be withdrawn and then offered independently. The amendment offered by the Senator from New York deals primarily with the expenditures of the commission and the mode of raising the money and paying the bills. The amendment offered by the Senator from Delaware deals chiefly with the appointing power of the commission and places a limitation upon the salaries of certain of the employees of the commission.

Mr. COPELAND. I think the Senator is right; and I ask consent of the Senate to withdraw my amendment for the moment until that offered by the Senator from Delaware may be disposed of.

Mr. STEIWER. That is most considerate of the Senator, and I think that is the proper course—to enable the Senate to pass first upon the amendment offered by the Senator from Delaware—to determine whether or not we desire to bring certain employees of the commission under the classified civil service.

The question was asked a little while ago by the Senator from Idaho whether that would fix their salaries. I do not pose as an authority upon the subject; but it seems reasonably plain that if we should put employees under the classified civil service, we would in fact fix the salaries as of the grades permitted under such service. If that is not done, Mr. President, then, of course, there is no limitation upon the salaries; there is nothing prescribed as to the duties; and the whole arrangement with respect to employees and the duties and work of the employees will be made upon the judgment and discretion of the commission, without the restraint of any law.

The PRESIDING OFFICER. Without objection, the amendment proposed by the Senator from New York [Mr. COPELAND] will be considered withdrawn. The question now is upon the amendment proposed by the Senator from Delaware [Mr. HASTINGS], which will be stated.

The CHIEF CLERK. On page 10 it is proposed to strike out all of line 5 down to and including the word "subsection" on page 11, line 4, and in lieu thereof to insert the following:

(c) The commission is authorized to appoint and fix the compensation of such attorneys, examiners, and other experts and employees as may be necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

With the exception of the secretary, a clerk to each commissioner, the attorneys, and such special experts and examiners as the commission may from time to time find necessary for the conduct of its work, all employees of the commission shall be part of the classified civil service, and shall enter the service under such rules and regulations as may be prescribed by the commission and by the Civil Service Commission.

All of the expenses of the commission, including all necessary expenses for transportation, incurred by the commissioners or by employees under their orders in making any investigation or upon official business in other places than in the city of Washington shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the commission. Until otherwise

provided by law, the Commission may rent suitable offices for its use. The General Accounting Office shall receive and examine all accounts of expenditures of the commission.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Delaware.

The amendment was rejected.

Mr. COPELAND. Now, Mr. President, I reoffer my amendment to subsection (d), with the addition of an amendment to subsection (e) modifying the language on line 7 of the amendment which I presented so as to strike out, after the words "shall be", the remainder of the sentence, and insert "fixed by the commission and in an amount sufficient to pay the expenses of the commission", so that it shall read:

Such fee shall be fixed by the commission and in an amount sufficient to pay the expenses of the commission.

The rest of the amendment will be as heretofore read.

The PRESIDING OFFICER. The question is on the amendment, as modified, offered by the Senator from New York, which will be stated.

The CHIEF CLERK. On page 10, beginning with line 11, it is proposed to strike out through line 4 on page 11, and to insert in lieu thereof the following:

(d) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, (1) such sums as may be necessary to enable the commission to complete its organization and to carry on its work during the first year after its establishment, and (2) such sums annually thereafter as may be necessary to enable the commission to carry on its functions under this title.

(e) Every national securities exchange shall pay to the commission on or before March 15 of each calendar year a registration fee for the privilege of doing business as a national securities exchange during the preceding calendar year or any part thereof. Such fee shall be fixed by the commission and in an amount sufficient to pay the expenses of the commission. The commission shall pay into the Treasury the amount of all fees paid to it under this subsection on or before April 1 of each calendar year, and the same shall be covered into the Treasury as miscellaneous receipts.

The PRESIDING OFFICER. The question is on the amendment of the Senator from New York, as modified.

On a division, the amendment, as modified, was rejected.

Mr. HEBERT. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 48, line 9, between the word "secrets" and the comma, it is proposed to insert "or confidential or competitive information"; so as to read:

PUBLIC CHARACTER OF INFORMATION

SEC. 23. (a) The information contained in any application, report, or document filed with the Commission may be made available to the public whenever in the judgment of the Commission a disclosure of such information is necessary or appropriate in the public interest or for the protection of investors and does not reveal trade secrets or confidential or competitive information, and copies thereof, photostat or otherwise, may be furnished to any person at such reasonable charge as the Commission may prescribe—

And so forth.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Rhode Island.

Mr. HEBERT. Mr. President, I shall not detain the Senate unduly in explaining the amendment I have proposed, because I realize that the committee having the bill in charge has given it long and careful consideration; and yet I should not feel justified in withholding this amendment, even at this late hour in the day, because it has been suggested to me by one of my constituents who feels that his interests may be affected by the bill if it shall become a law.

Mr. FLETCHER. Mr. President, if the Senator will allow me, I really believe that the language now in the bill covers the matter; but if the Senator desires to add those words to the trade-secrets provision I shall not object to having that done.

Mr. HEBERT. I thank the Senator.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Rhode Island.

The amendment was agreed to.

Mr. HEBERT. Mr. President, I offer the amendment, which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 54, it is proposed to strike out lines 8 to 15, inclusive, and in line 16 to strike out "(c)" and to insert in lieu thereof "(b)".

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Rhode Island.

Mr. HEBERT. Mr. President, this amendment is proposed to paragraph (b) of section 28 on page 54 of the printed bill. Paragraph (b) provides as follows:

Every contract made in violation of any provision of this act or of any rule or regulation thereunder, and every contract, including any contract for listing a security on an exchange, heretofore made, the performance of which involves the continuance of any relationship or practice prohibited by this act or any rule or regulation thereunder, shall be void as regards any cause of action arising after the effective date of such provision, rule, or regulation.

To my mind, this provision of the bill would operate to affect existing contracts, and to take away from parties to such contracts rights which they might well have thereunder. I repeat that this paragraph affects not only contracts hereafter made but contracts heretofore made, the performance of which involves the continuance of any relationship or practice prohibited by the bill.

Let us assume that a broker, a member of a stock exchange, has an agreement with a customer to do certain things in respect to the purchase and sale of certain securities. Under that agreement we will assume that the member of the stock exchange agrees to advance certain funds upon the security of the particular things he has for sale or which he is going to purchase for the customer.

Mr. BYRNES. Mr. President, will the Senator yield?

Mr. HEBERT. I yield.

Mr. BYRNES. I intended to offer a substitute for this paragraph; and if the Senator will permit me to send it to the desk and have it read at this time, he may be satisfied with the amendment I propose to offer.

The PRESIDING OFFICER. The amendment of the Senator from South Carolina will be stated.

The CHIEF CLERK. It is proposed to strike out subsection (b) of section 28, on page 54, and in lieu thereof to insert:

(b) Every contract made in violation of any provision of this act or of any rule or regulation thereunder, and every contract (including any contract for listing a security on an exchange) heretofore or hereafter made, the performance of which involves the violation of or the continuance of any relationship or practice in violation of, any provision of this act or any rule or regulation thereunder, shall be void as regards the rights of any person who, in violation of any provision of this act or any rule or regulation thereunder, shall have made or engaged in the performance of any such contract, and as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any provision of this act or any rule or regulation thereunder.

Mr. HEBERT. Mr. President, as I listen to the substitute proposed by the Senator from South Carolina [Mr. BYRNES], it seems to me that it leaves the undesirable provision, and what I consider to be the unconstitutional part of paragraph (b), still in effect; that is, it operates as to contracts heretofore entered into.

I have no quarrel with the Senator so far as concerns making unlawful any relations or entering into any agreements which are forbidden by the bill, provided the bill relates to agreements hereafter entered into but not to those heretofore made, because, clearly, under contracts heretofor entered into the parties to the contracts have acquired some constitutional rights which even this great body cannot take away; yet the provisions of paragraph (b) pretend to do that very thing. That is the objection I have to the paragraph. If, now, the Senator from South Carolina would change the verbiage of his suggested amendment so as to have the bill apply to agreements hereafter entered into, or rights acquired under agreements hereafter entered into, I should have no objection to the form of his amendment.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. HEBERT. I yield.

Mr. JOHNSON. As I understand the position which the Senator takes, it is that this particular provision is retroactive.

Mr. HEBERT. Exactly.

Mr. JOHNSON. How does the amendment of the Senator seek to correct the evil which thus he assails? The clerk has not read the amendment.

Mr. HEBERT. Mr. President, I am asking to strike out the words beginning on line 9, down to and including line 15. I want to say now, however, that in the light of the suggestion made by the Senator from South Carolina, I would not go so far as to strike out the provisions of paragraph (b), so far as they relate to contracts hereafter entered into. If we can agree upon a form of amendment which will make this provision apply to contracts hereafter entered into, then there will be no constitutional objection to such an amendment and no one's rights will be interfered with.

Mr. JOHNSON. Cannot what is sought by the proponents of the act and what the Senator desires be preserved by merely deleting the two words "heretofore made", and have the reference then to contracts executed subsequently to the enactment of the measure?

Mr. HEBERT. That would be entirely satisfactory.

Mr. BYRNES. Mr. President, I have no objection to modifying the amendment by eliminating the word "heretofore", so that under the amendment, so far as the contract is concerned, it is to be deemed valid only as to one who violates the law, the guilty person, and the rights of the innocent person to the contract will be protected.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from South Carolina.

Mr. HEBERT. Mr. President, as I understand, the question is on my amendment as modified by the Senator from South Carolina, and I have agreed to the modification.

The PRESIDING OFFICER. The Senator from South Carolina offered his amendment in the nature of a substitute for the text of the section, and it would take precedence under the rules of the amendment of the Senator from Rhode Island. Does the Senator from South Carolina offer his amendment as a substitute for the text of the bill?

Mr. BYRNES. I offer it as a substitute for the text.

The PRESIDING OFFICER. Then the question would be as stated by the Chair.

Mr. JOHNSON. Mr. President, has the amendment of the Senator from South Carolina now been modified as he suggested a moment ago?

Mr. BYRNES. It has been.

Mr. JOHNSON. So that the particular portion of the bill now under consideration has relation to contracts which shall be made after the passage of the bill, or after the making of the rules and regulations, as the case may be?

Mr. BYRNES. That is correct.

Mr. HEBERT. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from South Carolina.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment of the Senator from Rhode Island.

The amendment was rejected.

Mr. HEBERT. Mr. President, I offer another amendment.

Mr. JOHNSON. May I inquire of the Senator from Florida whether he is proposing to have the Senate continue in session for a considerable period of time longer?

Mr. FLETCHER. I want the Senate to remain in session as long as may be practicable, and dispose of amendments. I do not want to stop now. I want to get the amendments out of the way. We have to do that.

Mr. JOHNSON. Will we adjourn, in the Senator's opinion, by half past 2 o'clock tomorrow morning?

Mr. FLETCHER. I hope so.

The PRESIDING OFFICER. The clerk will state the amendment offered by the Senator from Rhode Island.

The CHIEF CLERK. On page 40, line 17, it is proposed to strike out the word "reliance," and to insert in lieu thereof the word "statement"; and in line 25, to strike out the words "As used in this subsection;" and on page 41 to strike out lines 1 to 4, inclusive.

Mr. HEBERT. Mr. President, if the Chairman of the Committee on Banking and Currency will give his attention to the first part of the amendment which is now proposed, he will readily see that it is a perfecting amendment, and it is the right language to use in place of that which is to be found in the bill on page 40, line 17.

The bill now reads, beginning after the parenthesis on page 40, line 15, "who, in reliance upon such statement, shall have purchased or sold a security at a price which was affected by such statement, for damages caused by such reliance."

The damage is not caused by "such reliance"; the damage is caused as a result of a misleading statement made to the purchaser. The word "statement" ought to be substituted in place of the word "reliance." I think that must be clear to anyone who reads it. Following along further in the amendment which I now propose, I would delete the words, beginning in line 25, page 40, "As used in this subsection the term 'statement' shall be construed to include any omission to state a material fact which is required to be stated in any such application, report, or document, or which is necessary to make the statement not misleading."

Clearly that language involves an impossibility. If Senators will analyze the language I have just read "shall be construed to include any omission to state a material fact", they will see that the two things cannot be read together without their destroying each other. Under the original statement, there cannot be one to be construed, and all that is covered in lines 1 to 4, inclusive, on page 41, is included within the provisions of section 18 on page 40.

If anything material is left out of the statement, if the whole truth concerning a given state of facts is not included in the statement, using the very language at the end of the paragraph (a), on page 41, "to make the statement not misleading", all of that would be included within the provisions of section 18, paragraph (a).

I confess I have never seen a piece of legislation drafted so as to provide that nothing in a statement which does not exist shall be misleading or that anything that shall be left out of a statement that does not exist shall be misleading.

Mr. FLETCHER. Mr. President, I will say to the Senator that in the amendment which I am offering, or will as soon as we get to it, an amendment to the Securities Act, we will change that language in the Securities Act; and if that amendment shall be agreed to, it will become a part of this bill, and will be the law. I would rather not agree to the amendment proposed by the Senator.

Mr. HEBERT. Mr. President, does the Senator say that the objection which I am now making to the provisions of section 18 are going to be taken care of by a substitute amendment which the committee will propose?

Mr. FLETCHER. The amendment which I shall propose will carry a provision with reference to the Securities Act, which will then become a part of this measure. It will deal with the question of reliance upon representations.

Mr. HEBERT. Mr. President, how will that affect this provision? This provision concerns what is, to my mind, an impossible state of affairs.

Mr. FLETCHER. This provision might not be inconsistent with the language of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Rhode Island. [Putting the question.] The amendment is agreed to.

Mr. BYRNES. Mr. President, what was the announcement by the Chair?

The PRESIDING OFFICER. The announcement was that the amendment had been agreed to.

Mr. BYRNES. I ask for a division.

The PRESIDING OFFICER. A division is called for.

Mr. HEBERT. Mr. President, I do not want to take up the time of the Senate unduly, but if the Senator insists upon a division I shall suggest the absence of a quorum and ask for a roll call.

Mr. BYRNES. Mr. President, I have no objection. Certainly the Senator from Rhode Island should not object to my asking for a division. Upon my asking for a division he states that he will suggest the absence of a quorum, and ask for a roll call.

Mr. HEBERT. Mr. President, we have gone along all afternoon and have not asked for divisions or roll calls, because we were anxious to expedite the consideration of the bill. I do not want to prolong the session of the Senate unduly.

Mr. BYRNES. All I ask is an opportunity to ascertain the sentiment of the Senate on this amendment. If that brings the Senator to the point of suggesting the absence of a quorum, the Senator can suggest the absence of a quorum and ask for a roll call.

Mr. FLETCHER. All we ask for is a division. We are impressed that Senators were not perhaps fully aware of the question being put, and we simply ask that those who are here divide on the subject; not that a yea-and-nay vote may be necessary.

Mr. CLARK. I ask unanimous consent that the amendment be restated.

The PRESIDING OFFICER. Without objection, the amendment will be restated.

The CHIEF CLERK. On page 40, line 17, after the words "caused by such", it is proposed to strike out the word "reliance" and to insert in lieu thereof the word "statement"; in line 25, after the word "litigant", it is proposed to strike out the words "As used in this subsection"; and on page 41 it is proposed to strike out lines 1 to 4, both inclusive.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Rhode Island [Mr. HEBERT].

The amendment was rejected.

Mr. HEBERT. I send to the desk an amendment which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 12, line 7, after the word "members", it is proposed to strike out "and by issuers whose securities are registered thereon."

Mr. HEBERT. Mr. President, this amendment would change paragraph no. (1) on page 12. It has relation to the registration of national securities exchanges. The paragraph now provides that any exchange desiring to be registered shall file an agreement to comply and to enforce so far as is within its powers, compliance by its members "and by issuers whose securities are registered thereon."

Manifestly, that is an impossible task. No member of an exchange could ever hope to secure compliance on the part of the 600,000 corporations issuing stock or other evidences of indebtedness in this country. It is an impossible thing to expect the members of the exchange to do; and yet, if they fail to do it, there is the implication that they may render themselves liable to the very severe penalties imposed elsewhere in this bill. Surely some consideration should be given to the difficulties which will be encountered in securing a compliance with that part of paragraph (1) on page 12.

I propose to delete from the paragraph the words "and by issuers whose securities are registered thereon", so that it will apply to the members of the exchanges themselves. They must file the agreements. They must do all that the regulations require.

Mr. FLETCHER. Mr. President, the amendment has just been presented to me. It is rather far-reaching in its effect. It is difficult for me to make up my mind about it. I appreciate the argument made by the Senator from Rhode Island, although it seems to me the language proposed to be stricken out is quite important. What would be the effect, may I ask the Senator, of eliminating the issuer?

Mr. HEBERT. Mr. President, the issuer will not be subject to the regulation of the stock exchange. The issuer will not be a member of any stock exchange. It is merely the member who will be subject to the regulation of the stock exchange; and yet there is placed upon the member of the stock exchange the obligation of making the issuer comply with the regulations of the stock exchange, of which the issuer is not a member, and with which the issuer has nothing in common. It seems to me that it is going a long way to impose an obligation upon a member of a stock exchange, and, if he fails to meet that obligation, to subject him to the very severe penalties imposed by the bill.

Mr. FLETCHER. I think we can agree to the amendment and let it go to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Rhode Island [Mr. HEBERT].

The amendment was agreed to.

Mr. HEBERT. I send to the desk another amendment, and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 56 it is proposed to strike out lines 3 to 21, both inclusive, and in lieu thereof to insert the following:

SEC. 30. Any person who willfully violates any provision of this act which is declared to be unlawful, or any person (including any director or officer, or any accountant or other expert) who willfully and knowingly makes, or causes to be made, any statement in any application, report, or document required to be filed under this act, which statement was false with respect to any material fact, shall upon conviction be fined not more than $5,000 or imprisoned not more than 1 year, or both, except that when such person is an exchange, a fine not exceeding $100,000 may be imposed.

Mr. HEBERT. Mr. President, if I may have the attention of the chairman of the committee, I will explain the provisions of the amendment which has just been read at the desk. It seeks to make two changes. It relates to section 30, on page 56, the penalty section. It removes the distinction between violations of the law proper and violations of the regulations of the Commission.

From a reading of section 30 it is apparent that paragraph (a) imposes very severe penalties for violations of the law and that paragraph (b) imposes less severe penalties for violations of the regulations issued by the Commission. The amendment would make no distinction as between violations of one kind and another, but it would materially reduce the maximum penalty for violations of either the law or the regulations of the Commission.

It may be said that there is some justification for imposing very severe penalties for violations of the law. Through the years I have had some experience with the consideration of that subject, and I long since reached the conclusion that the severity of the penalty does not in and of itself act as a deterrent.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. HEBERT. Certainly.

Mr. COUZENS. These are only maximum penalties and the amounts imposed would be within the discretion of the court.

Mr. HEBERT. I realize they are only maximum penalties, but I realize too that there are those before whom offenders might be tried who would impose the maximum penalty. I realize that has been done in the past in not a few instances, and in a cruel way in many instances.

The first purpose of a penalty under a statute of any kind is that it shall act as a deterrent. In other words, it says to citizens of the country, "If you violate this law, then you will incur this penalty." The penalty fixed is intended to deter people from violation of the law.

It is not a question of what the Government recovers in the way of fines. That is not the purpose of the penalty. It never has been. In criminal cases it is supposed in theory to be in a way to pay for the indignity that has been

done to the Government because of the violation of its law, but in real purpose it is intended as a deterrent.

Mr. COUZENS. Mr. President, will the Senator yield?

Mr. HEBERT. I yield.

Mr. COUZENS. The committee gave a great deal of consideration to the question of penalties. May I point out to the Senator that the amount of the fine imposed for the commission of many acts which the bill intends to cover would constitute a small penalty amounting to practically nothing so far as protection of the public is concerned. In other words, anyone who undertakes to violate this law may clean up many millions of dollars by a violation of the law and then get off with a mere minor penalty. The committee considered that matter, and I hope the Senate will not reduce the amount of the penalty because of the possibility of making large sums of money by violation of the law.

Mr. HEBERT. I never supposed that the imposition of a fine in cases of this kind would go very far to deter one who was disposed to enter into law violations where a great amount of profit might be realized. But the Senator will bear in mind that this section carries an imprisonment provision. Not only may the offender be assessed a penalty in the form of a fine, but he may be imprisoned as well. The two may go together.

Mr. COUZENS. Yes; that is for violation of the law.

Mr. HEBERT. It is not merely a question of fine but a question of imprisonment as well.

Having in mind the purpose of a penalty in a statute of this kind, it has seemed to me that the limit placed upon the penalties in the bill is very much too high. I think it will destroy its own purpose. Moreover, I think it will act as a deterrent to others entering into the brokerage business. It may be difficult to secure the necessary capital with which to enter into the business of selling securities because of the danger that there may be severe penalties to be imposed because of violation of the prohibitions of the bill.

I have just indicated, in connection with the previous amendment I offered, in which I sought to make a change so that members of a stock exchange would not be required to have the issuers of securities subjected to the provisions of the bill, how easy it would be to subject one to the penalties provided in the bill.

Mr. President, I have no disposition to do anything which would in the least make less effective the provisions of the bill. I am satisfied that the change proposed in the penalties would not do that. I rather think it would be an improvement in the form of the bill, and that is the reason why I am suggesting the amendment.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Rhode Island.

The amendment was rejected.

Mr. STEIWER. Mr. President, I had a discussion with the Senator from South Carolina [Mr. BYRNES] a day or two ago with respect to the use of the words "any material respect." I suggested to him—indeed, it was suggested in committee, and I believe that the Senator from South Carolina and the chairman of the committee were both in agreement—that the language might well be changed so it would read "with respect to any material fact." I have such an amendment I want to offer, and I am wondering if I can have it accepted without debate?

Mr. BYRNES. Mr. President, I am familiar with the amendment to which the Senator from Oregon refers, and I know it was the intention of the committee to include those words. I hope the amendment will be adopted.

Mr. STEIWER. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 20, line 19, to strike out the words "in any material respect" and insert in lieu thereof "with respect to any material fact."

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Oregon.

The amendment was agreed to.

Mr. STEIWER. I offer the same amendment on page 40.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed on page 40, line 13, to strike out the words "in any material respect" and insert in lieu thereof the words "with respect to any material fact."

The amendment was agreed to.

Mr. STEIWER. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. It is proposed, on page 28, beginning in line 13, to strike out the words "to comply with the provisions of this act and any amendments thereto and with the rules and regulations made or to be made thereunder, and".

Mr. STEIWER. Mr. President, I do not want to take the time of the Senate for the purpose of discussing the amendment at length. In a very few sentences I can state my purpose in offering the amendment.

In an amendment offered earlier in the day by the Senator from Delaware [Mr. HASTINGS] he sought to have the House language substituted for paragraph (b) of section 12 of the Senate bill. That involved a number of changes, but the significant change would have been the elimination from section 12, paragraph (b), of the requirement for an agreement to be made by the issuer, commencing in line 11, page 28. That proposal was voted down by the Senate. It was voted down upon the argument that it would eliminate the latter part of that subsection which would be necessary in order to regulate the lending of funds at the money post of the exchange or to any broker or dealer who transacts business in securities through the medium of any member of the exchange.

It was contended in that argument, and it was contended in the debate by a number of Senators with whom I discussed the matter as a part of my contribution to the debate, that the first part of the subsection had no practical effect and that it imposed no liability upon the issuer that would not have existed in any event by reason of the fact that the issuer would be bound to comply with the rules and regulations made and to be made by the commission. I myself believe that that contention is almost entirely sound. It has occurred to me at all times that the requirement here for the member to comply with rules and regulations made or to be made does not substantially change the position of the issuer, except with respect to the possibility of civil liabilities to be asserted in the future.

The only purpose of this amendment is to strike from the subsection the requirement that the issuer must agree to comply with the provisions of this measure and any amendments thereto, and with the rules and regulations made or to be made thereunder. The remainder of the subsection will be left entirely unaffected. If those of my friends who contend that the issuer must in any case abide by the rules and regulations, and that this language does not impose any additional restriction or requirement upon him, sincerely want to follow through with their own suggestion, they may do it by joining now in voting for this amendment, so that the subsection will merely provide that the issuer must make an agreement with the exchange and with the commission to the effect that it will not lend any funds in violation of the requirements of the agreement.

Much could be said on the subject, but I think I shall not detain the Senate. The issue is known to all of us. I wish the Senator from Alabama [Mr. BLACK] were here. He is the one who, in the earlier debate, most insistently urged upon the Senate that the language which I now seek to strike out would not add anything at all to the liabilities of the issuer, either civilly or criminally, and that in any event he would be obliged to comply with the rules and regulations made and to be made by the commission. It seems to me that if corporations are objecting to this requirement, and if, indeed, it does not add anything to the strength of the proposed law, we ought to eliminate it from the bill so as

to make the bill as inoffensive as it is possible to make it upon this point.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Oregon [Mr. STEIWER].

The amendment was rejected.

Mr. FLETCHER. Mr. President, I am wondering if there are any more amendments to be offered to the bill.

Mr. BULKLEY. I desire to offer an amendment.

Mr. FLETCHER. I am about to ask for a recess. I desire to give notice that tomorrow, when the Senate meets, I intend to offer as title II of this bill the amendments which have heretofore been proposed to the Securities Act of 1933. I hope to have that question disposed of and have the bill finally acted upon tomorrow.

The PRESIDING OFFICER. The Senator from Ohio [Mr. BULKLEY] offers an amendment which will be stated.

The LEGISLATIVE CLERK. On page 35, line 17, after the words "submission of", it is proposed to insert "a notice of a stockholders' meeting, whether or not accompanied by", so as to read:

As used in this subsection the term "to solicit" shall not be deemed to include the mere submission of a notice of a stockholders' meeting, whether or not accompanied by a form of proxy for the convenience of stockholders.

Mr. FLETCHER. Mr. President, I think that amendment can be agreed to without any objection. Let us dispose of it now.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Ohio.

The amendment was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House insisted upon its amendments to the bill (S. 3170), an act to authorize the Postmaster General to award 1-year contracts for carrying air mail, to establish a commission to report a national aviation policy, and for other purposes, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MEAD, Mr. ROMJUE, Mr. DOBBINS, Mr. KELLY of Pennsylvania, and Mr. Foss were appointed managers on the part of the House at the conference.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 752. An act to amend section 24 of the Judicial Code, as amended, with respect to the jurisdiction of the district courts of the United States over suits relating to orders of State administrative boards;

S. 2671. An act repealing certain sections of the Revised Code of Laws of the United States relating to the Indians;

H.R. 177. An act for the relief of Lottie Bryant Steel;

H.R. 190. An act for the relief of Elizabeth T. Cloud;

H.R. 200. An act for the relief of Jacob Durrenberger;

H.R. 207. An act for the relief of Homer C. Chapin;

H.R. 371. An act for the relief of Peter Guilday;

H.R. 503. An act to authorize the donation of certain land to the town of Bourne, Mass.;

H.R. 878. An act for the relief of Kathryn Thurston;

H.R. 889. An act for the relief of Frank Ferst;

H.R. 1207. An act for the relief of Robert Turner;

H.R. 1208. An act for the relief of Frederick W. Peter;

H.R. 1209. An act for the relief of Nellie Reay;

H.R. 1254. An act for the relief of H. Forsell;

H.R. 2021. An act to place Jesse C. Harmon on the retired list of the United States Marine Corps;

H.R. 2203. An act for the relief of Enoch Graf;

H.R. 2431. An act for the relief of certain newspapers for advertising services rendered the Public Health Service of the Treasury Department;

H.R. 2750. An act for the relief of Scott C. White;

H.R. 3553. An act for the relief of Harvey O. Willis;

H.R. 3673. An act to amend the law relative to citizenship and naturalization, and for other purposes;

H.R. 3868. An act for the relief of Arabella E. Bodkin;

H.R. 4060. An act for the relief of Ellen Grant;

H.R. 4274. An act for the relief of Charles A. Brown;

H.R. 4927. An act for the relief of C. J. Holliday;

H.R. 4928. An act for the relief of the Palmetto Cotton Co.;

H.R. 4929. An act for the relief of J. B. Trotter;

H.R. 5299. An act for the relief of Orville A. Murphy;

H.R. 5542. An act for the relief of Joe G. McInerney;

H.R. 7059. An act to provide for the further development of vocational education in the several States and Territories;

H.R. 8052. An act to amend sections 203 and 207 of the Hawaiian Homes Commission Act, 1920 (U.S.C., title 48, secs. 697 and 701), conferring upon certain lands of Auwaiolimu, Kewalo, and Kalawahine, on the Island of Oahu, Territory of Hawaii, the status of Hawaiian home lands, and providing for the leasing thereof for residence purposes;

H.R. 8208. An act to provide for the exploitation for oil, gas, and other minerals on the lands comprising Fort Morgan Military Reservation, Ala.;

H.R. 8235. An act to authorize the Secretary of War to convey by appropriate deed of conveyance certain lands in the District of Ewa, Island of Oahu, Territory of Hawaii; and

H.J.Res. 311. Joint resolution to permit articles imported from foreign countries for the purpose of exhibition at A Century of Progress Exposition, Chicago, Ill., to be admitted without payment of tariff, and for other purposes.

EXECUTIVE MESSAGE REFERRED

The PRESIDING OFFICER (Mr. DUFFY in the chair), as in executive session, laid before the Senate a message from the President of the United States, submitting sundry nominations in the Army, which was referred to the Committee on Military Affairs.

(For nominations this day received, see the end of Senate proceedings.)

PRIZE ESSAY ON LINCOLN

Mr. COPELAND. Mr. President, one of my friends has sent me an essay on Lincoln. It was written by a 12-year-old schoolgirl, and, in my opinion, is worthy a place in the CONGRESSIONAL RECORD. It is found in the Pawtucket Times, February 14. I ask that the essay may be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

[From the Pawtucket Times, Wednesday, Feb. 14, 1934]

ASHTON PUPIL GETS PRIZE FOR LINCOLN ESSAY—RUTH E. JONES IS GIVEN THOMAS LEIGHTON AWARD IN TOWN-WIDE CONTEST

The prize-winning essay written by Ruth E. Jones, 12, daughter of Mr. and Mrs. Sam Jones, of Scott Road, Ashton, in the annual contest for the Thomas Leighton prize in Cumberland, is as follows:

"In this day of modern, comfortable homes, with conveniences at every hand, it is hard to imagine a dwelling as crude as that of Thomas Lincoln in the backwoods of Kentucky early in 1800. One would think that such a home could not yield strength and wisdom, but little Abraham Lincoln, who was born there on February 12, 1809, grew to be an unusually strong and intelligent child. At the age of 7 he carried an ax and gun and worked hard on the little farm.

"His schooling had to be acquired 'by littles', and amounted in all to less than a year. However, his mother, Nancy Hanks Lincoln, taught him to read and write. In later years Lincoln said, 'All that I am and all that I hope to be I owe to my sainted mother.'

"Lincoln had few books and would walk miles to borrow others. Lincoln had no light by which to study except from the fireplace, and no paper on which to write, but he did his 'sums' on a wooden shovel, and shaved it clean when finished.

"When Lincoln was 21 he saw for the first time, while on a trip to New Orleans, Negroes chained, whipped, separated from their families, and sold in the market place like cattle. This grieved the kind-hearted man and he decided that if it ever became possible for him to do so, he would fight slavery.

"During these years Lincoln became greatly interested in law and politics and would often walk 12 miles to the law office of a friend to study the books there. While studying with the hopes of becoming a lawyer, he was for a time assistant county surveyor and local postmaster. But in time he accomplished his purpose and was admitted to the bar. In all his law practice he would not defend a case unless he felt it absolutely right and just.

"The feeling against slavery was gaining in the North, while slavery itself was spreading in the South. Lincoln sent out the alarm, 'Slavery is spreading like wildfire', and challenged Stephen A. Douglas to a series of debates. Seven debates followed in towns in Illinois. People came from all around to hear them. Douglas

argued that each State should be allowed to choose for itself whether it should be free or slave.

"Lincoln claimed that no man had a right to be master of another, and that a nation divided could not stand. Douglas won the debates, but Lincoln's strength of character made such a lasting impression upon the people that in 1860 they elected him President of the United States. The election caused great bitterness in the South, and several States seceded from the Union and formed the Confederate States of America.

"Four dark years of war followed, during which Lincoln worked, first, for the preservation of the Union and, secondly, for the freedom of the slaves. Meanwhile Lincoln issued and signed the Emancipation Proclamation, setting 4,000,000 slaves 'henceforth and forever free.' Finally in April 1865 the terrible war came to an end with the surrender of the South. The Union was saved, the slaves were free, but this great gladness was turned into sorrow when Lincoln was shot by an assassin.

"The savior of his country belongs to the ages."

In announcing the award the judges issued the following statement:

"It was no task but a pleasure to act as judges for the excellent essays submitted. In every instance it was not alone thoroughness in preparation of subject that should be praised, but neatness of papers, excellence of penmanship, accuracy of spelling, and knowledge of English. The judges wish to congratulate both teachers and pupils."

Students of all Cumberland schools participated in the contest.

RECESS

Mr. ROBINSON of Arkansas. I move that the Senate take a recess until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 55 minutes p.m.) the Senate took a recess until tomorrow, Saturday, May 12, 1934, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate May 11 (legislative day of May 10), 1934

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

TO CAVALRY

Second Lt. Charles Edward Wheatley, Jr., Coast Artillery Corps, with rank from June 10, 1932, effective June 10, 1934.

TO FIELD ARTILLERY

First Lt. Howard Waite Brimmer, Infantry, with rank from March 25, 1923.

PROMOTIONS IN THE REGULAR ARMY

To be captains

First Lt. Wallace Gordon Smith, Air Corps, from May 3, 1934.

First Lt. Charles Adam Horn, Air Corps, from May 6, 1934.

To be first lieutenants

Second Lt. Leroy Cullom Davis, Field Artillery, from May 3, 1934.

Second Lt. Alvord Van Patten Anderson, Jr., Air Corps, from May 6, 1934.

MEDICAL CORPS

To be lieutenant colonels

Maj. Charles Lewis Gandy, Medical Corps, from May 6, 1934.

Maj. William Washington Vaughan, Medical Corps, from May 9, 1934.

To be captain

First Lt. Francis Patrick Kintz, Medical Corps, from May 4, 1934.

HOUSE OF REPRESENTATIVES

FRIDAY, MAY 11, 1934

The House met at 11 o'clock a.m.

Rev. Robert James White, National Chaplain the American Legion, Catholic University of America, Washington, D.C., offered the following prayer:

Lord God Almighty, we bow before Thee and in humble prayer beseech Thy blessing upon our deliberations.

We again avow our dependence upon Thee, our creator, redeemer, and eternal judge, and repeat with the Psalmist of old: "The Lord is our refuge and our strength."

In Thy boundless wisdom, O Lord, Thou hast given Thy sanction to government in human affairs, because Thou hast made government a necessary instrument to bring to men the blessings of peaceful order, just laws, permanent security, and mutual helpfulness.

Keep us mindful of our responsibility to Thee for our leadership; and let us not forget that though we be leaders of men, we are yet Thy children.

Destroy, O Lord, every consideration of selfishness, of sectionalism or group. Support us, O Lord, in our abiding conviction that we are not only caring for the needs of the passing hour but are working out in part the lasting destiny of our Nation in Thy eternal plan.

Enlighten our minds and strengthen our wills to the end that the ideals we profess may become realities in the lives we live; and over our lives, and acts and thoughts and being, cast, O Lord, the protecting mantle of Thy love and charity, that all may tend to the longed-for "increase of peace and good will on earth."

We ask these blessings through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On May 9, 1934:

H.R. 1127. An act for the relief of O. H. Chrisp;

H.R. 2340. An act for the relief of Russell & Tucker and certain other citizens of the States of Texas, Oklahoma, and Kansas; and

H.R. 7279. An act for the relief of Porter Bros. & Biffle and certain other citizens.

On May 10, 1934:

H.R. 7835. An act to provide revenue, equalize taxation, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 541. An act for the relief of John P. Leonard;

H.R. 4533. An act for the relief of the widow of D. W. Tanner for expense of purchasing an artificial limb;

H.R. 5405. An act for the relief of Nicola Valerio;

H.R. 7306. An act to amend section 10 of the act entitled "An act extending the homestead laws and providing for right-of-way for railroads in the District of Alaska, and for other purposes", approved May 14, 1898, as amended; and

H.J.Res. 325. Joint resolution extending for 2 years the time within which American claimants may make application for payment, under the Settlement of War Claims Act of 1928, of awards of the Mixed Claims Commission and the Tripartite Claims Commission, and extending until March 10, 1935, the time within which Hungarian claimants may make application for payment, under the Settlement of War Claims Act of 1928, of awards of the War Claims Arbiter.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 8. An act to add certain lands to the Boise National Forest;

S. 86. An act for the relief of A. L. Ostrander;

S. 173. An act for the relief of William Martin and John E. Walsh, Jr.;

S. 488. An act for the relief of Norman Beier;

S. 522. An act for the relief of Patrick J. Sullivan;

S. 740. An act for the relief of William G. Fulton;

S. 867. An act to define, regulate, and license real-estate brokers and real-estate salesmen; to create a Real Estate